

***United States Court of Appeals
for the Second Circuit***



APPENDIX

15-7389

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
No. 75-7389

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PATRICIA MCREDMOND, et al., by their
attorney and next friend, CHARLES
SCHINITSKY, on behalf of themselves
and all others similarly situated,

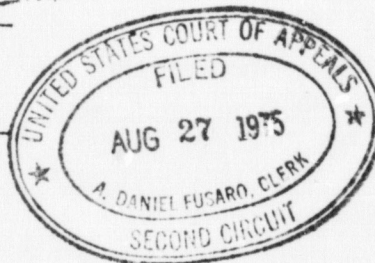
Appellants,

- against -

MALCOLM WILSON, individually and as
Governor of the State of New York,
et al.,

Appellees.
-----X

APPENDIX



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RELEVANT DOCKET ENTRIES

- 11/12/74 Filed complaint and issued summons.
- 1/8/75 Filed Stip. & Order amending the complaint. Gagliardi, J.
- 1/9/75 Filed defts.' notice of motion re: dismissal of the complaint, etc. ret: 2/5/75.
- 2/24/75 Filed Affdvt. in opposition to defts' motion to dismiss, by pltff.
- 2/24/75 Filed Pltff's Affdvt & notice of motion for preliminary injunction, ret. 3/4/75
- 3/4/75 Filed Pltff's Suppl. Affdvt in support of motion for preliminary injunction.
- 3/5/75 Filed Affdvt by Margery Evans Reifler for defts in opposition to pltffs' motion for preliminary injunction.
- 3/6/75 Filed Affdvt. of Marlin Silverstein.
- 3/13/75 Filed Reply Affidavit in support of preliminary injunction.
- 3/24/75 Filed OPINION #42658. Court deems allegations contained in complaint to be of a sufficiently serious nature as to warrant reasonably prompt consideration by an appropriate court. State Court proceedings should be expeditiously commenced by pltffs, & it is the hope of this court that matter will be heard by state courts without undue delay. In meantime, court will retain jurisdiction, etc. Gagliardi, J. (mn)
- 6/27/75 Filed ORDER. Action is stayed in accordance with said Opinion. Gagliardi, J. (mn)
- 7/3/75 Filed Pltff's notice of appeal from order of 6/27/75. Mailed notices.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT NEW YORK

-----X
PATRICIA MCREDMOND, SYLVIA JOHNSON, GREGORY :
VAN LEUVAN, ROBERT SOSA, ROSE MARIE TARASEWICH, :
ANGEL GEORGE and WILLIE BOSKET, by their :
attorney and next friend CHARLES SCHINITSKY, :
on behalf of themselves and all other :
similarly situated, :

Plaintiffs, :

- against -

COMPLAINT -
CLASS ACTION

74 Civ. 4948
(L.P.G.)

MALCOLM WILSON, individually and as Governor :
of the State of New York; MILTON L. LUGER, :
individually and as Director of the New York :
State Division for Youth; CHARLES H. KING, :
individually and as deputy Director, Rehabili- :
tative Services of the Division for Youth; :
JAMES DETORE, individually and as Director :
of Placement and Counseling for the New York :
State Division for Youth; KAMEL SUKHON, indi- :
vidually and as Director of Placement for the :
New York State division for Youth; GEORGE :
DOLECAL, individually and as Superintendent :
of the New York State Training School at :
Hudson, New York; BAN HALLINAN, individually :
and as Superintendent of the New York State :
Training School at Highland, New York; GARY :
SHAVER, individually and as Superintendent of :
the Brookwood Center, Claverack, New York; :
SYDNEY ZIRIN, individually and as Superintend- :
ent of the Tryon State Training School at :
Johnstown, New York; AND I. LEO GLASSER, in- :
dividually and as Judge of the Family Court :
of the State of New York; PHILLIP D. ROACHE, :
individually and as Judge of the Family Court :
of the State of New York; GEORGE G. BERNHARD, :
individually and as Judge of the Family Court :
of the State of New York; CESAR H. QUINONES, :
individually and as Judge of the Family Court :
of the State of New York; M. HOLT MEYER, indi-

vidually and as Judge of the Family Court of :
the State of New York; JOSEPH S. DEUTSCH, in- :
dividually and as Judge of the Family Court :
of the State of New York; LOUIS A. PAGNUCCO, :
individually and as Judge of the Family Court :
of the State of New York, on behalf of them- :
selves and all other Family Court Judges of :
the State of New York similarly situated, :

Defendants. :

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INTRODUCTION

1. This is a class action for declaratory and injunctive relief. The named Plaintiffs herein, who are all adjudicated "Persons in Need of Supervision", and the class they represent challenge the constitutionality and legality under New York State statutes of Defendants' action of placing them in the New York State Training Schools.

Plaintiffs and their class, who have not been adjudicated as juvenile delinquents and, yet, have not received the full panoply of due process rights given to persons who are criminal defendants, allege that Defendants' action of placing them in the New York State Training Schools is cruel and punitive and unduly restricts their freedom to travel and associate. Nor does such placement, Plaintiffs claim, provide them with the adequate and appropriate treatment which they have a constitutional and statutory right to

receive. Plaintiffs also contend that there is no rational basis for placing them in the training schools, and there are less restrictive alternatives available.

Plaintiffs demand that Defendants be enjoined from continuing their actions of depriving Plaintiffs of their liberty by placing them in institutions which are punitive, unduly restrictive and cannot render adequate and appropriate treatment, and, instead, be required to place them if anywhere, in programs which are not punitive or unduly restrictive and will result in adequate and appropriate treatment.

JURISDICTION and VENUE

2. This is a civil action authorized by Title 42 U.S.C. § 1983 to redress the deprivation under color of state law of rights, privileges and immunities guaranteed to Plaintiffs by the First, Eighth, Ninth and Fourteenth Amendments to the Constitution of the United States. The jurisdiction of this Court is invoked under Title 28 U.S.C. § 1343 (3) and (4).

3. Plaintiffs' action for declaratory relief is authorized by 28 U.S.C. §§ 2201, 2202 of the Federal Rules of Civil Procedure. Injunctive relief is authorized by 42 U.S.C. § 1983 and Rule 65 of the Federal Rules of Civil Procedure.

4. Venue in this District is proper under 28 U.S.C. §§ 1391

(b) and 1392 (a).

PLAINTIFFS

5. All Plaintiffs are boys or girls who have been adjudicated "Persons in Need of Supervision" ("PINS") by the Family Court of the State of New York and placed into one of the four New York State Training Schools for PINS. The four training schools are Highland State Training School, Hudson State Training School, Tryon State Training School and Brookwood Center.

6. Section 712(b) of the Family Court Act of the State of New York ("F.C.A.") defines a PINS as "...a male less than sixteen years of age and a female less than eighteen years of age who does not attend school in accord with the provisions of part one of article sixty-five of the education law or who is incorrigible, ungovernable, or habitually disobedient and beyond the lawful control of parent or other lawful authority." However, in A. v. City of New York, 31 N.Y.2d 83 (1972), the New York State Court of Appeals held that the portion of section 712 relating to PINS which provides for a maximum age of 16 for males and 18 for females for PINS jurisdiction unconstitutionally discriminates against females, and in following the decision, the Family Court no longer subjects anyone 16 years of age or older to PINS proceedings.

7. Plaintiff PATRICIA McREDMOND is a sixteen year old

adjudicated PINS who was placed on July 15, 1974, with the New York State Division for Youth ("D.F.Y.") under Article 19-G of the Executive Law of the State of New York by Defendant Judge I. Leo Glasser of the Family Court, Kings County, pursuant to section 756 of the F.C.A. She is presently placed in Hudson State Training School ("Hudson").

8. Plaintiff SYLVIA JOHNSON is a fourteen year old adjudicated PINS who was placed on October 18, 1974, with D.F.Y. under Article 19-G of the Executive Law of the State of New York by Defendant Judge Phillip D. Roache of the Family Court, Kings County, pursuant to section 756 of the F.C.A. She is presently placed in Hudson.

9. Plaintiff GREGORY VAN LEUVAN is a sixteen year old adjudicated PINS who was placed on April 16, 1974, with D.F.Y. under Article 19-G of the Executive Law of the State of New York by Defendant Judge George G. Bernhard of the Family Court, Dutchess County, pursuant to section 756 of the F.C.A. Plaintiff was placed on parole, pending appeal, from Hudson on July 23, 1974, by order of Justice Marcus G. Christ of the Appellate Division of the Supreme Court of the State of New York, Second Department.

10. Plaintiff ROBERT SOSA is a fourteen year old adjudicated PINS who was placed on October 17, 1972, with D.F.Y. under Article

19-G of the Executive Law of the State of New York by Defendant Judge Cesar H. Quinones of the Family Court, Kings County, pursuant to section 756 of the F.C.A. He is presently placed in Highland State Training School ("Highland").

11. Plaintiff ROSE MARIE TARASEWICH is a thirteen year old adjudicated PINS who was placed on September 23, 1974, with D.F.Y. under Article 19-G of the Executive Law of the State of New York by Defendant Judge M. Holt Meyer of the Family Court, Richmond County, pursuant to section 756 of the F.C.A. She is presently placed in Highland.

12. Plaintiff ANGEL GEORGE is a sixteen year old adjudicated PINS who was placed on February 21, 1974, with D.F.Y. under Article 19-G of the Executive Law of the State of New York by Defendant Judge Joseph S. Deutsch of the Family Court, Queens County, pursuant to section 756 of the F.C.A. He is presently placed in Tryon State Training School ("Tryon").

13. Plaintiff WILLIE BOSKET is an eleven year old adjudicated PINS who was placed on May 16, 1974, with D.F.Y. under Article 19-G of the Executive Law of the State of New York by Defendant Judge Louis A. Pagnucco of the Family Court, New York County, pursuant to section 756 of the F.C.A. He is presently placed in Brookwood Center ("Brookwood").

CLASS ACTION - PLAINTIFFS

14. Plaintiffs bring this action on behalf of themselves and all others similarly situated as a class pursuant to Rule 23 of the Federal Rules of Civil Procedure. They are members of a class of persons who, based upon a PINS adjudication, are presently placed, are on parole from placement or are subject because of their age and circumstances to placement in Hudson State Training School, Highland State Training School, Tryon State Training School or Brookwood Center.

15. This class action is properly brought because the above class:

a) is so numerous that joinder of all members is impracticable. On information and belief, there are approximately 450 PINS now in training schools, 2,000 PINS on parole from training schools, and hundreds of thousands of youth who because of their age and circumstances are subject to placement as PINS in the training schools named herein.

b) there are common questions of law and fact, namely whether Defendants' action of placing Plaintiffs' class or subjecting Plaintiffs' class to placement in the State Training Schools named herein violates the rights of Plaintiffs' class under the Constitution of the United States and the Constitution, the Family Court Act and the Executive Law of the State of New York.

c) the questions of law and fact common to the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for a fair and efficient adjudication of the controversy. This Court is a desirable forum in which to concentrate the litigation of the claims of the class, since it has the power to hear all the claims and to grant appropriate relief.

d) the claims of the representative Plaintiffs are typical of the claims of the members of the class, and it can reasonably be expected that Defendants will interpose identical defenses to such claims.

e) the Legal Aid Society of the City of New York, Juvenile Rights Division, attorneys for Plaintiffs will fairly and adequately protect the interest of the class; and

f) furthermore, the prosecution of separate actions by or against individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for Defendants. In addition, the Defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate injunctive and corresponding declaratory relief with respect to the class as a whole.

DEFENDANTS

16. Defendant MALCOLM WILSON is the Governor of the State of New York and is vested with the power to appoint, with the advice and consent of the New York State Senate, the Director of the New York State Division for Youth. Furthermore, as Governor, said Defendant is authorized to examine and investigate the management and affairs of the New York State Division for Youth at any time. Said defendant is being sued individually and in his official capacity. He maintains offices at the Capitol, Albany, New York.

17. Defendant MILTON L. LUGER is Director of the New York State Division for Youth and is vested with direction and control over all D.F.Y. facilities and programs including the training schools of the State of New York, and their aftercare programs. He is being sued individually and in his official capacity. He maintains offices at Two World Trade Center, New York City and 2 University Place, Albany, New York.

18. Defendant CHARLES H. KING is Deputy Director, Rehabilitative Services of the New York State Division for Youth and, upon information and belief, is responsible for the operation of the State Training Schools and the maintenance and development of rehabilitative services for D.F.Y. He is being sued individually and in his official capacity. He maintains offices at Two World

Trade Center, New York City.

19. Defendant JAMES DETORE is New York State Division for Youth Director of Placement and Counseling and, upon information and belief, is responsible for the treatment of PINS in the State Training Schools and coordination of their aftercare upon release from said schools. He is being sued individually and in his official capacity. He maintains offices at 2 University Place, Albany, New York.

20. Defendant KAMEL SUKHON is the Director of Placement for the New York State Division for Youth, and, upon information and belief, is responsible for placement of PINS in the State Training Schools. He is being sued individually and in his official capacity. He maintains offices at two World Trade Center, New York City.

21. Defendant GEORGE DOLECAL is the Superintendent of the New York State Training School at Hudson, New York, wherein PINS are placed. Upon information and belief, as superintendent, Defendant Dolecal is responsible for the treatment of and programs for persons who are placed at Hudson. He is being sued individually and in his official capacity.

22. Defendant BAN HALLINAN is the Superintendent of the New York State Training School at Highland, New York, wherein PINS are placed. Upon information and belief, as superintendent, Defendant

Hallinan is responsible for the treatment of and programs for persons who are placed at Highland. He is being sued individually and in his official capacity.

23. Defendant GARY SHAVER is the Superintendent of the Brookwood Center, Claverack, New York, wherein PINS are placed. Upon information and belief, as superintendent, Defendant Shaver is responsible for the treatment of and programs for persons who are placed at Brookwood. He is being sued individually and in his official capacity.

24. Defendant SYDNEY ZIRIN is the Superintendent of the Tryon State Training School at Johnstown, New York, wherein PINS are placed. Upon information and belief, Defendant Zirin is responsible for the treatment of and programs for persons who are placed at Tryon. He is being sued individually and in his official capacity.

25. Defendant I. LEO GLASSER is a judge of the Family Court of the State of New York, County of Kings, and on July 15, 1974, he ordered that Plaintiff Patricia McRedmond be placed with the New York State Division for Youth in a State Training School. As judge, said Defendant is mandated to make an appropriate order of disposition. He is being sued individually and in his official capacity.

26. Defendant PHILLIP D. ROACHE is a judge of the Family Court of the State of New York, County of Kings, and on October 18, 1974, he ordered that Plaintiff Sylvia Johnson be placed with the New York State Division for Youth in a State Training School. As judge, said Defendant is mandated to make an appropriate order of disposition. He is being sued individually and in his official capacity.

27. Defendant GEORGE G. BERNHARD is a judge of the Family Court of the State of New York, County of Dutchess, and on April 16, 1974, he ordered that Plaintiff Gregory Van Leuvan be placed with the New York State Division for Youth in a State Training School. As judge, said Defendant is mandated to make an appropriate order of disposition. He is being sued individually and in his official capacity.

28. Defendant CESAR H. QUINONES is a judge of the Family Court of the State of New York, County of Kings, and on October 17, 1972, he ordered that Plaintiff Robert Sosa be placed with the New York State Division for Youth in a State Training School. As judge, said Defendant is mandated to make an appropriate order of disposition. He is being sued individually and in his official capacity.

29. Defendant M. HOLT MEYER is a judge of the Family Court

of the State of New York, County of Richmond, and on September 23, 1974, he ordered that Plaintiff Rose Marie Tarasewich be placed with the New York State Division for Youth in a State Training School. As judge, said Defendant is mandated to make an appropriate order of disposition. He is being sued individually and in his official capacity.

30. Defendant JOSEPH S. DEUTSCH is a judge of the Family Court of the State of New York, County of Queens, and on February 21, 1974, he ordered that Plaintiff Angel George be placed with the New York State Division for Youth in a State Training School. As judge, said Defendant is mandated to make an appropriate order of disposition. He is being sued individually and in his official capacity.

31. Defendant LOUIS A. PAGNUCCO is a judge of the Family Court of the State of New York, County of New York, and on May 16, 1974, he ordered that Plaintiff Willie Bosket be placed with the New York State Division for Youth in a State Training School. As judge, said Defendant is mandated to make an appropriate order of disposition. He is being sued individually and in his official capacity.

CLASS ACTION - DEFENDANTS

32. Although Defendants listed in paragraphs "16" through "24" above are not being sued as representatives of a class, Plaintiffs bring this action against the named Defendants who are judges of the Family Court of the State of New York and all other Family Court judges similarly situated as a class pursuant to Rule 23 of the Federal Rules of Civil Procedure. They are members of a class of persons who, as judges of the Family Court, order that Plaintiffs and their class be placed with the New York State Division for Youth in a State Training School.

33. This class action is properly brought because the above class:

a) is so numerous that joinder of all members is impracticable. Upon information and belief, there are approximately 133 judges of the Family Court in the State of New York, many of whom, other than the named Defendant judges, order that PINS be placed with the Division for youth in a State Training School.

b) there are common questions of law and fact, namely whether Defendant class' action ordering the placement of Plaintiffs' class in the training schools named herein violates Plaintiffs' rights under the Constitution of the United States and the Constitution, the Family Court Act and the Executive Law of the

State of New York.

c) the questions of law and fact common to the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for a fair and efficient adjudication of the controversy. This Court is a desirable forum in which to concentrate the litigation of the claims of the class, since it has the power to hear all the claims and to grant appropriate relief,

d) upon information and belief, the defenses of the representative Defendants will be typical of the defenses of the members of the class, and

e) upon information and belief, the Attorney General of the State of New York, statutory attorney for the Defendant class, will fairly and adequately protect the interest of the Defendant class.

34. Furthermore, the prosecution of separate actions by or against individual members of the Defendant class would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for Plaintiffs. In addition, the Plaintiffs have acted or refused to act on grounds generally applicable to the class, thereby making appropriate injunctive and corresponding declaratory relief with respect to the class as a whole.

FACTUAL ALLEGATIONS

I

35. In doing all the acts herein alleged, all of the Defendants, and each of them, and each member of the class of Family Court judges, were and are acting under color of state law, custom and usage and by virtue of the authority vested in each of them by the Constitution and laws of New York State in the capacities as heretofore and hereinafter stated.

36. At all times relevant herein, Defendants and each of them, knew, or should have known of the acts, omissions and conditions alleged herein.

37. Under Article 7 of the Family Court Act of the State of New York, young persons may be brought before a judge of the Family Court and adjudicated as Persons in Need of Supervision. Section 732 of the Family Court Act mandates that a petition which originates a PINS proceeding allege that the respondent requires supervision or treatment.

38. The Family Court procedures leading to a PINS adjudication consist of a fact-finding hearing pursuant to Family Court Act §742 and a dispositional hearing under F.C.A. §743. A fact-finding hearing is a hearing to determine whether the young person

has committed acts sufficient to meet the definition of PINS contained in §712 of the Family Court Act. A dispositional hearing is defined as a hearing to determine whether the boy or girl "requires supervision or treatment." Both hearings are necessary for a youth to be adjudicated as a PINS.

39. Court procedures used for PINS adjudications provide fewer due process rights than court procedures used for criminal convictions.

40. Under F.C.A. §712(b), the Family Court is to make "an appropriate order of disposition", and under F.C.A. §255, the Family Court may effectuate such a disposition by ordering any public officer or employee to render such assistance and cooperation as shall be within his authority.

41. Upon a PINS adjudication the Court, as one of its dispositional alternatives under F.C.A. §§754 and 756, may place the young person with the Division for Youth pursuant to Article 19-G of the Executive Law of the State of New York, for a period not to exceed eighteen months.

42. Upon information and belief, the Family Court and the Division for Youth find authorization for operating the present State Training Schools for PINS in Title III of Article 19-G of the Executive Law. If the Family Court determines that a PINS

should be placed in a training school, it will order placement with D.F.Y. under Title III.

43. Upon information and belief, the Division for Youth operates other facilities under Title II of Article 19-G, including, as termed by D.F.Y., homes for boys and girls, start centers, youth development centers and halfway houses, all of which are located in the State's largest cities. Although the Division for Youth has the authority under Executive Law §511(3) to transfer a PINS whom the Family Court has ordered to be placed under Title III, to a D.F.Y. program other than the State Training Schools or to discharge or release the youth, this infrequently occurs without the PINS first spending a considerable time in a training school. On the other hand, the Division for Youth has no authority under said statute to place a PINS in a training school unless the Family Court has ordered placement under Title III.

44. As defined in §§510 and 511(1) of the Executive Law of the State of New York, the Title III facilities are "schools" and "centers" which "shall be for the training, care and rehabilitation of children adjudicated as juvenile delinquents or as persons in need of supervision." The Defendants are given responsibility for such rehabilitation pursuant to §501 of the Executive Law.

45. Under §501(1) of the Executive Law, which transferred

administration of the training schools in July, 1971 from the State Department of Social Services to the Division for Youth, the director of D.F.Y. "may add to or close" any "school" or "center" formerly operated by the Department of Social Services and "may establish and maintain new schools or centers." Under §501 of the Executive Law, the director of D.F.Y. may "establish, operate, and maintain, or to contract" for the operation and maintenance of youth centers and youth development and work training programs. Upon information and belief, the director of D.F.Y. has decided to continue the operation of training schools for PINS indefinitely.

II

46. Young persons allegedly in need of supervision have been institutionalized by the State of New York at least since 1824, when the New York House of Refuge was founded as the first youth reformatory in the United States. The name of and the agency controlling the institutional progeny of the House of Refuge have changed with time, and at present, the State has "training schools" for PINS operated by the Division for Youth. However the lives of the youths placed into these "training schools" have not been improved in any way regardless of their name or the agency operating them.

47. Although their behavior is not criminal, upon information and belief, plaintiffs and their class have behaved in a way which their families or communities or both believe to be troublesome and indicative of future difficulties.

48. Assuming the State, in acting on behalf of plaintiffs' families and communities, is justified in intervening into the lives of plaintiffs because they are allegedly in need of supervision, intervention in the form of placement in the State Training Schools is not justified. The training schools are geographically distant from plaintiffs' homes and communities, and therefore, frequent visits with families, friends and other members of plaintiffs' communities are most difficult. Subjecting children and adolescents to involuntary isolation from their families, friends and communities is cruel and punitive and unreasonably restricts their freedom to travel and associate.

49. In addition, certain prerequisites exist for providing plaintiffs with adequate and appropriate treatment which are inherently absent from the D.F.Y. training schools. One prerequisite for providing plaintiffs and their class with adequate and appropriate treatment which is inherently absent from the training schools is a family environment which fosters intimacy, respect and trust. The training schools are large, emotionally cold, impersonal and institutional facilities

incapable of promoting a familial atmosphere and are only able to engender authoritarianism, regimentation, boredom, uniformity and harmful disciplinary and punitive practices. In fact, not only are Plaintiffs forced to live in a non-familial environment, but because of the training schools' geographic isolation, Plaintiffs are not able even to have consistent contact with any families.

50. A second prerequisite for providing Plaintiffs and their class with adequate and appropriate treatment which is inherently absent from the training schools is meaningful participation in community life. The training schools are both geographically and spritually isolated from community life. It is essential that Plaintiffs and their class learn to live in a community. It is also essential that Plaintiffs and their class form positive relationships with members of the community who will help them to successfully adjust to community life. In training school, Plaintiffs are forced to adapt to an institutional environment. Their only consistent contact is with institutional staff who impose upon them institutional norms. This results in decreased likelihood that Plaintiffs will ever make a successful adjustment into the community.

51. A third prerequisite for providing Plaintiffs and their class with adequate and appropriate treatment which is absent from

the training schools is the presence of a skilled and appropriate staff. The training schools are severely deficient in qualified academic and vocational teachers, social workers, psychologists, psychiatrists and other child and adolescent counselors and recreational staff.

52. A fourth prerequisite for providing Plaintiffs and their class with adequate and appropriate treatment which is absent from the training schools is the preparation and implementation for each youth of an individualized, comprehensive plan to provide such treatment tailored to the youth's particular needs. Upon information and belief, Defendants have not attempted to prepare or implement such plans.

53. The Defendant Governor, Defendant Director of the Division for Youth and the Defendant officials of D.F.Y. have continued to operate Hudson, Highland, Tryon and Brookwood for Plaintiffs and members of their class, and Defendant judges of the Family Court have continued to order that Plaintiffs and members of their class be placed in these training schools involuntarily, even though these institutions have not adequately and appropriately treated, are not so treating and are inherently unable to so treat Plaintiffs and their class.

A. HUDSON

54. Hudson State Training School is a coeducational institution for PINS located in Hudson, New York, a rural community located approximately 120 miles north of New York City and 30 miles south of Albany. Hudson's present population, upon information and belief, consists of 80 girls and 25 boys.

55. Hudson has extensive grounds with at least twenty structures, including an administrative building which contains the school and gymnasium and an infirmary (known to the youth as "M.P.U." or Multi-Purpose Unit). Upon information and belief, five residential buildings, one for boys, one for coed and three for girls, are in use in addition to one locked security residence. Hudson's grounds, which are set approximately one-half mile from a bordering public road, also contain various abandoned buildings.

56. Fifteen to twenty-five boys and girls live in each residence. The residential buildings are large old two-story brick buildings about seventy feet by thirty feet by thirty feet whose interiors are generally pale green in color. Each boy or girl has his or her separate room which is located off a long narrow corridor. There is a common bathroom in each residence. In addition, each residence contains a kitchen from which institutional food is served and a dining area where the young persons

are fed in an institutional atmosphere.

57. Upon information and belief, Hudson has two "child-care" workers assigned to each residential building each day from 8:00 A.M. to 4:00 P.M., two others from 4:00 P.M. to midnight and one other from midnight to 8:00 A.M. No staff member maintains his or her residence at Hudson. Each residential building also has a supervisor and an assistant supervisor, both of whom are on duty for about eight hours each weekday. One teacher is assigned to each residential building. Furthermore, Hudson has one full-time nurse, one full-time psychologist and one part-time psychiatrist for the entire institution.

58. Upon information and belief, the ungraded education program at Hudson consists of approximately three hours of school attendance each weekday. Classes are held in both the school and the residential buildings. In addition, many young people attend group meetings 1 1/2 hours per weekday, a process in which the group dictates actions which the individual may take.

59. Apart from school and group meetings, Hudson's population receives only custodial care. Meals and clean-up detail consume about 3 1/2 hours per day. For the remainder of their day, eight waking hours, the youths are given free time. They may play cards, shoot pool, use the gym, watch television or sit

and smoke cigarettes. Boredom is all-pervasive.

60. Various harmful and punitive methods of discipline are employed at Hudson. These range from denial of privileges, residence confinement and locked and unlocked room confinement to extended isolation.

61. The Multi-Purpose Unit ("M.P.U.") is frequently used for isolation. Young persons are placed in a room about five feet by twelve feet which contains only a thin mattress placed upon the floor. All other furniture and decoration are removed prior to placing a young person in such isolation. In fact, the glass to the one window is removed as well, leaving only a meshed screen for the cold wind to pass through during the non-summer months, reducing the room temperature to near freezing. An entire floor of the M.P.U. is devoted to isolation.

62. Youth will remain in M.P.U. isolation for periods up to several days. During such periods, the youth confined is not counseled in any way and only sees staff members who serve him reduced amounts of food or who, after the youth has cried and screamed for help over a long period of time, will allow him to go to the bathroom.

63. Rooms in the residential buildings are also used for such isolation. Young persons confined, whether in residences or

the M.P.U., must remain in their pajamas for length of their isolation.

64. Plaintiff PATRICIA McREDMOND is sixteen years old and has been in placement at Hudson since on or about July 15, 1974, pursuant to the order of Defendant Judge Glasser. Plaintiff was adjudicated a PINS based upon a petition brought by her mother, Eileen McRedmond, on September 13, 1971, in Family Court, Kings County. Prior to such date, Plaintiff had been living with her mother in Brooklyn, New York.

65. On January 22, 1974, a finding of fact was made that Plaintiff McRedmond absconded on September 6, 1973 and was beyond the control of her parent. Plaintiff had absconded for that night because her mother refused to extend Plaintiff's curfew. Her PINS proceeding was based solely on acts which are typically adolescent and were directly concerned with the relationship between the mother and daughter.

66. On February 19, 1974, Plaintiff McRedmond and her mother were referred to Flatlands Guidance Center, and on April 2, 1974, the Family Court ordered that all members of the family continue counseling at Flatlands Guidance Center. However, on July 15, 1974, Plaintiff was placed in Hudson. Plaintiff wants to return home and improve the relationship with her mother. Upon informa-

mation and belief, her mother wants Plaintiff to be paroled to her home.

67. Plaintiff McRedmond's life at Hudson is governed by continual fear. She is afraid of expressing her opinions or acting in any way other than in strictly conforming with institutional norms for fear that she will receive punishment in the form of isolation and loss of privileges, as well as extension of her term at Hudson. She therefore remains in her room as much as possible.

68. Plaintiff McRedmond is often depressed and cries a lot. She feels this way because she does not want to be at Hudson and because she sees other young persons who are confined to their rooms without any pillows, sheets, blankets or even adequate food and sees others running away.

69. Hudson has failed to make an attempt to prepare or implement an individualized program designed to meet Plaintiff McRedmond's personal needs. However, even if Hudson were to make such an attempt, its effectiveness would be severely limited because of Hudson's inherent inability to promote positive family and community relationships for any member of its population. Hudson's staff is unable to work consistently with Plaintiff's family. Additionally, Plaintiff is unable to have consistent

contact with her family or those members of the community who will help her adjust successfully to community life. Although Defendants have assigned to her an aftercare worker, he works in New York City and Plaintiff has not seen him.

70. Hudson's inability to provide Plaintiff McRedmond with adequate and appropriate treatment is typical of the training schools' inability to provide any member of the class which she represents with adequate and appropriate treatment.

71. Plaintiff SYLVIA JOHNSON is fourteen years old and has been in placement at Hudson since October 23, 1974, based upon her adjudication as a PINS pursuant to a petition brought by her mother, Marion Johnson, on September 6, 1973, in Family Court, Kings County.

72. Plaintiff Johnson's mother had filed a prior PINS petition on September 29, 1972, in Kings County Family Court. On said date, the Family Court noting possible neglect by Plaintiff's mother, ordered a full study on the case. After spending the next seven months on parole to her grandmother or in Juvenile Center (the New York City Department of Social Service secure detention facility for youth), Plaintiff was placed by the Probation Office in Blue Heaven Farms, a residential center located 150 miles from Brooklyn, in Stuyvesant, New York. On June 5, 1973, based upon

the Probation Office's recommendation, the case was dismissed. Subsequently, Plaintiff returned to her mother.

73. On September 10, 1973, a fact-finding hearing was held in Family Court for the PINS petition upon which Plaintiff Johnson's Hudson placement is based, and she was found to have left her home without permission (see Court endorsement). From said date, until Plaintiff was ordered by defendant Judge Roache on October 18, 1974, to be placed with D.F.Y. in a State Training School, she was shuttled among Juvenile Center, her mother's home and non-secure detention facilities.

74. Plaintiff Johnson has had disagreements with her mother for some time. Typically, Plaintiff's mother had refused to grant Plaintiff's requests to stay overnight at the home of friends or even to go out in the evening, while granting such privileges to Plaintiff's eleven and sixteen year old brothers.

75. Prior to her transfer from Juvenile Center to Hudson on October 23, 1974, Plaintiff Johnson knew nothing about Hudson, was frightened and did not want to go. Defendants failed to give her any orientation about the training school before the transfer.

76. Within a few days after arrival at Hudson, Plaintiff Johnson, like other members of her class, became bored and depressed. She goes to 4 1/2 hours per weekday of school and group

meetings, but spends the remainder of her day eating meals, cleaning-up and being confined to her residence. She has not even been given any outdoor or gymnasium recreation.

77. Plaintiff GREGORY VAN LEUVAN is sixteen years old and was in placement at Hudson from April 16, 1974, until July 22, 1974, when he was paroled pending appeal by order of Justice Marcus G. Christ, Appellate Division, Second Department.

78. Plaintiff Van Leuvan received a fact-finding hearing on February 26, 1974, in Dutchess County Family Court based upon a petition brought by William J. Eagon, Commissioner of the Dutchess County Department of Social Services, with whom he had been in foster care since June 3, 1966. At the hearing, the Court found that Plaintiff had been truant from school and had left his foster home without the permission of his foster parents.

79. When Plaintiff Van Leuvan left his foster home without permission, he visited his natural mother, Mrs. Robert DeNike, in Poughkeepsie, New York. Plaintiff ran away from his foster family because at that time he was uncertain about his need for foster care and anxious about his relationship with his natural mother and stepfather who resided in the same city. Plaintiff's truancy was due to his desire to work rather than remain in an academic school setting. Thus, Plaintiff's problems concern his family

relationships and his occupation, the resolution of which can occur only through his interaction with people in the family and community in which he will live.

80. On April 16, 1974, an order placing Plaintiff Van Leuvan with D.F.Y. in a State Training School was entered by Defendant Judge George G. Bernhard of the Family Court of Dutchess County, and Plaintiff was immediately placed at Hudson.

81. Plaintiff Van Leuvan disliked Hudson intensely. He hated being locked up and given constant and arbitrary orders. As a result of his experience there, he became very nervous and sought medication from the physician. He also found that there was nothing to do but sit around and smoke for long periods each day. Hudson failed to make an attempt to prepare or implement an individualized program designed to meet Plaintiff's particular needs.

82. Plaintiff Van Leuvan found school at Hudson boring. Classes were taught at an educational level well below his capacity. He also received no vocational training which would assist him in gaining employment upon his release from Hudson. He received no aftercare assistance in preparation for his release to a community while at training school. In fact, he had no contact with an aftercare worker while he was at Hudson.

B. HIGHLAND

83. Highland is a coeducational institution for PINS located in a rural setting approximately 100 miles north of New York City and 70 miles south of Albany, near Highland, New York. Its present population, upon information and belief, consists of 75 boys and 35 girls.

84. Highland has extensive grounds leading off from a secondary rural road and upon which are situated a school building, administrative offices, twelve residential buildings, and various abandoned buildings.

85. Upon information and belief, ten to twenty boys or girls live in each residential building. The beds are arranged in barracks style in a dormitory. There are no walls or other partitions separating the areas of the residences other than those surrounding a common bath and shower room and an apartment in which live two houseparents.

86. Upon information and belief, Highland has one person termed a social worker and one other counselor assigned to each residence for eight hours per day. One psychiatrist visits the training school one day per week to make himself available to the population for six hours. One nurse is always on duty. Highland has one full-time psychologist.

87. Highland's population is fed in a cafeteria with both institutional atmosphere and food. The youth are required to line up when entering and leaving the cafeteria.

88. Upon information and belief, the education program consists of approximately four hours of school attendance each weekday. Classes are held both in the school and in the residences. No vocational training is given at Highland. Many young people attend 1 1/2 hours per weekday of group meetings. One to two hours a day are devoted to clean-up detail. During most of its remaining non-sleeping and non-eating hours, Highland's population is given free time. The alternatives are playing sports, shooting pool, sitting and smoking cigarettes, fishing or watching television. Within a few days such scheduling results in absolute boredom. Counselors sit behind desks and act as custodians. Highland uses infrequent movies, socials with the opposite sex and off-campus trips as privileges.

89. Various harmful and punitive methods of discipline are employed at Highland. These range from such discipline as denial of privileges, residence confinement and unlocked or locked room confinement, to extended isolation.

90. Upon information and belief, Highland maintains a "strip room" in the administration building for isolation. A strip room

is a locked bare room which may contain a mattress or a chair. Young persons are kept in such rooms alone or in groups for periods ranging from minutes to twelve hours, at the end of which time they are made to sleep in the infirmary. When in groups they may be made to stand facing a blank wall for extended periods.

91. Plaintiff ROBERT SOSA is fourteen years old and has been in placement at Highland since June 5, 1974. Pursuant to an order of Defendant Age Quinones, Plaintiff also was involuntarily placed at Overbrook Center for Children in Red Hook, New York where he remained from October, 1972, to September, 1973, when Overbrook was a Title III facility. Subsequent to Plaintiff's release, Defendants designated Overbrook as a Title II facility.

92. Plaintiff Sosa was subjected to Family Court jurisdiction when his mother brought a PINS petition in Kings County on November 16, 1970. Upon information and belief, Plaintiff's mother, Flora Rivera, and his stepfather live in Brooklyn, New York with Robert's brother, age 28, and a sister, Betty, age 15. Betty was recently paroled from Highland. Robert also has a nineteen year old brother who is in prison and a married sister. Another brother died of a drug-related illness in October, 1972. Plaintiff's mother is an alcoholic.

93. Plaintiff Sosa was found to be a PINS by the Family

Court on November 17, 1970, because he sometimes stayed out overnight with neighborhood friends, did not go to school and because his mother indicated to the Family Court that she could not handle him. Upon the PINS finding, Plaintiff was paroled to his mother. However, on July 22, 1971, Plaintiff's mother refused to keep him, and he was placed with New York City Commissioner of Social Services. After running home to his mother from Children's Center, Plaintiff was placed at the Mission of the Immaculate Virgin. When Plaintiff again ran home, his mother returned him to Family Court, and he was placed at Overbrook.

94. While Plaintiff Sosa was in Overbrook, Defendants did not counsel Plaintiff's family, establish community and public school relationships and otherwise prepare Plaintiff for his return home. In fact, he did not see his aftercare worker while at training school. Upon information and belief, Defendants' failure to provide Plaintiff with adequate and appropriate aftercare preparation is typical of their treatment of all parolees.

95. In September, 1973, Plaintiff Sosa was paroled to his mother, but when she alleged that he still was not going to school and was staying out overnight, Plaintiff was placed in D.F.Y.'s Brooklyn Group Home on February 19, 1974. Plaintiff had seen his aftercare worker once during this five-month period. While in the

group home Plaintiff continued to be embarrassed by his poor reading grade level, which had dropped from a 2.1 grade level in June, 1971, to a 1.9 grade level by the time he was released from Overbrook, and he did not attend school. He also continued to run home to his mother. He was placed, after D.F.Y. issued a parole violation warrant, in a D.F.Y. Youth Development Center in the Bronx, but he again ran away after being harassed by other boys. In unjustly placing the blame for Defendants' failure to provide Plaintiff with adequate and appropriate treatment onto Plaintiff, D.F.Y. revoked the young boy's parole and on June 5, 1974, sent him to Highland. On April 17, 1974, Defendant Judge Quinones extended Plaintiff's placement with D.F.Y. for one year.

96. Plaintiff Sosa has faced a system, while in training school, where physical aggressiveness and strength are the criteria for success. Thus he has been forced to fight constantly with his peers and has suffered a swollen leg as a result. Moreover, he has been forced to perform forced unpaid labor for his house-parents, scrubbing their floor, cleaning their stove and washing their dishes after they have eaten a home-cooked meal far superior to the institutional food which Plaintiff Sosa must eat.

97. Plaintiff does not understand how his placement at Highland will help him resolve the community and family related

behavior which led to his PINS finding. Plaintiff feels isolated from the "real world". Since his placement at Highland, Plaintiff has never been visited by his mother.

98. Highland has failed to make an attempt to establish an individualized program designed to meet Plaintiff Sosa's particular needs. However, even if Highland were to make such an attempt its effectiveness would be severely limited because of Highland's inherent inability to promote positive family and community relationships for any member of its population. Highland's staff is unable to work consistently with Plaintiff's family. Additionally Plaintiff is unable to have consistent contact with his family or those members of the community who will help him adjust successfully to community life. Although Defendants have assigned to him an aftercare worker, he works in New York City and Plaintiff has not seen him.

99. Highland's inability to provide Plaintiff Sosa with adequate and appropriate treatment is typical of the training school's inability to provide any member of the class which he represents with adequate and appropriate treatment.

100. Plaintiff ROSE MARIE TARASEWICH is thirteen years old and has been in placement at Highland since September 26, 1974. Plaintiff was adjudicated a PINS based upon a petition brought by

her mother, Loretta Tarasewich, on February 5, 1974, in Family Court, Richmond County.

101. Plaintiff Tarasewich was adjudicated a PINS and was placed into training school based upon a finding that she had absconded from her mother's home on January 25, 1974.

102. Following Plaintiff Tarasewich's excellent scholastic performance in sixth grade at P.S. 48, she was placed into an "SP" (special pupil) seventh grade class for the Fall, 1973. Therefore, she would have been able to skip eighth grade and go instead into ninth in Fall, 1974. In fact, prior to entering sixth grade, Plaintiff had tested at an 8.5 grade reading level and a 7.4 grade math level. After attending two months of seventh grade, however, Plaintiff became involved with friends who encouraged her not to attend school, and she did not complete the remainder of the school year. Plaintiff had frequent disagreements with her mother and stepfather about her friends.

103. Following her fact-finding hearing on March 19, 1974, Plaintiff Tarasewich was placed on probation and returned to her mother and stepfather who live in State Island, New York. On April 3, 1974, after she had been away without permission, Plaintiff was remanded by the Family Court to the Commissioner of Social Services' Staten Island Reception Center. Plaintiff ran away

from the Reception Center in May, 1974, and, after her mother refused to take her home, Plaintiff was sent by the Family Court to Callagy Hall Annex, the Commissioner's shelter for temporary placement in Queens. On June 4, 1974, Plaintiff's mother agreed to take her home on a trial basis, but on September 16, 1974, Mrs. Tarasewich told the Family Court that she wanted her daughter to be placed in a training school, and on September 23, 1974 Defendant Judge Meyer ordered such placement.

104. Plaintiff Tarasewich's life at Highland is typical of that of the rest of the population. Highland is thwarting Plaintiff's educational and cultural development. Plaintiff finds Highland's educational program to be boring and unchallenging. In addition, although English is her native language, Plaintiff also converses in Spanish. However, Highland's staff does not allow her to speak Spanish.

105. Plaintiff Tarasewich has been subjected to harassment from other youths at Highland because she acknowledges to others that she likes boys. Plaintiff ran out of her residential building on October 19, 1974, because she could no longer tolerate other girls who were being encouraged by her counselors to make false accusations about her relationships with boys. She has subsequently been denied visits from boys and off-campus trips

for two weeks.

106. Although misunderstandings and disagreements between Plaintiff Tarasewich and her mother led to her mother filing a PINS petition, they will be no more equipped to deal with each other upon Plaintiff's return to her community where she presently wishes to be, than upon her placement in the training school. In fact, since Plaintiff's placement at Highland, she has been visited by her mother once. Plaintiff has not received, and upon information and belief, her mother has not received, aftercare counseling to prepare for Plaintiff's return home.

C. TRYON

107. Tryon State Training School is a coeducational institution for PINS located in a rural setting approximately 210 miles northwest of New York City and 50 miles northwest of Albany near Johnstown, New York. Its population, upon information and belief, consists of 100 boys and 25 girls.

108. Tryon has extensive grounds leading from a secondary rural road and upon which are situated approximately sixty buildings including a school with gymnasium and indoor pool, administration building, maintenance facility and six residential buildings currently in use.

109. Upon information and belief, twenty to twenty-four boys

or girls live in each residence. Each set of two residences is connected by a central kitchen and each has a living room and game room. Two of the six residences are termed a "coed unit" in that a boys' residence and a girls' residence are connected by the common kitchen. Sleeping accommodations in each residential building are either in a dormitory or private room depending on an evaluation of the youth made by the residence counselor. There are two "semi-independent living" apartments where several young persons have their own rooms and prepare their own breakfast without staff supervision.

110. Upon information and belief, Tryon has one coordinator and one assistant coordinator assigned to each residence. At least one "staff" person is assigned at any given time of day to each residence. This person cooks and does other chores.

111. Upon information and belief, there are two part-time nurses at Tryon who each work four hours per day. A physician visits one day per week. A psychiatrist and a psychologist are each available one day per week for four hours.

112. Upon information and belief, the education program consists of approximately three hours of school attendance each day as well as two hours of vocational class for some youths in food service and shop. In the winter boys also shovel snow. In

addition, many young persons attend approximately 1 1/2 hours of group meetings per weekday. Tryon's population spends the rest of its time, most of its waking hours, cleaning-up, shooting pool, playing ping-pong and cards and sitting and smoking cigarettes or using the gym and swimming pool. Boredom is widespread. Tryon has infrequent movies, home visits and trips into town which it considers to be privileges for the young people.

113 Upon information and belief, the primary method of discipline employed at Tryon is restricted activity and detention. The boys and girls may be confined to the campus, to their rooms or denied privileges. Young persons may also be assigned to one of two secure residential buildings. An additional discipline technique is the use of the "hard seat" wherein a youth is made to sit in a wooden chair at all times during the day except to go to the bathroom and to sleep. In fact, Tryon's secure residential building has a level system in which young persons on the first level may sit only on hard wooden chairs, while their peers in the secure residence who are on the second level may sit in the soft-cushioned chairs.

114 Plaintiff ANGEL GEORGE is sixteen years old and was placed with the Division for Youth in a State Training School on February 21, 1974, pursuant to an order by Defendant Judge

Deutsch. From February 21, 1974 to October 4, 1974, Plaintiff was in placement at Hudson. However, on October 3, 1974, he was transferred in handcuffs to Tryon.

115 Plaintiff George's present placement is based upon his adjudication as a PINS on May 1, 1972, in Family Court Kings County, pursuant to a petition filed by his mother Rosa Martinez, in which she alleged that Plaintiff kept late hours, was truant and was beyond her lawful control.

116. Plaintiff George's odyssey through the child care system in New York began in 1964, when the Bureau of Child Welfare of the New York City Department of Social Services filed a neglect petition in Queens County Family Court on behalf of Plaintiff and his six siblings against Plaintiff's mother. The petition was renewed in 1973. The neglect petition alleged that Plaintiff's father had a criminal record and a history of drug use and that his mother was of limited intelligence and unable to care for the needs of her children. On June 12, 1973, the parents were found to have neglected most of their children, including Plaintiff (Deutsch, J.). The court-ordered interviews by psychiatrists found that Plaintiff's mother deeply rejected him. Such interviews also determined that although Plaintiff was borderline retarded, his major problems were emotional. In 1967, Plaintiff's

mother brought a PINS petition in King County alleging that Plaintiff kept late hours, was truant, had been picked up by the police for fire-setting and was beyond her control. The petition resulted in Plaintiff being committed to Queens State Hospital ("Creedmoor") from April 13, 1967 to March 1, 1971.

117. On May 1, 1972, Plaintiff George was placed on parole. However, on August 15, 1972, he was remanded to Juvenile Center, and on August 3, 1972, he was placed, with his mother's permission, in Creedmoor for psychiatric examination.

118. While at Hudson, Plaintiff George was confined in isolation for three days, from September 30, 1974 to October 3, 1974. He was locked in a room in "Cottage A" and was given only a mattress to be placed on the floor and two blankets. He was forced to remain in his pajamas during the entire period. He was not given any counseling. Moreover, only a screen covered the window opening, making the room extremely cold on nights during which the temperature reaches near freezing. Plaintiff, while in isolation, received small amounts of cold food for his meals.

119. Plaintiff George did not want to be at Hudson and does not now want to be at Tryon. Rather, he wishes to return as soon as possible to his home and get a job. At Tryon, Plaintiff's supervisors have punished him by forcing him to sit in a hard

wooden chair and have denied his requests to make collect telephone calls to his lawyers.

120. Tryon has failed to make an attempt to establish an individualized program designed to meet Plaintiff George's personal needs. However, even if Tryon were to make such an attempt, its effectiveness would be severely limited because of Tryon's inherent inability to promote positive family and community relationships for any member of its population. Tryon's staff is unable to work consistently with Plaintiff's family. Additionally, Plaintiff is unable to have consistent contact with a family or those members of the community who will help him adjust successfully to community life. Although Defendants have assigned to him an aftercare worker, he works in New York City and Plaintiff has not seen him.

121. Plaintiff George, like other members of his class, finds no correlation between his needs and the training school program. Tryon has not made an attempt to establish an individualized program to meet his particular needs. For example, he has not received and cannot receive necessary individual attention at Tryon.

122. Tryon's inability to provide Plaintiff George with adequate and appropriate treatment is typical of the training

schools' inability to provide any member of the class which he represents with adequate and appropriate treatment.

D. BROOKWOOD

123. Brookwood Center is a maximum security coeducational institution for PINS and Juvenile Delinquents located in a rural setting near Claverack, New York, approximately 115 miles north of New York City and 35 miles south of Albany. Its population, upon information and belief, consists of twelve boys and forty-eight girls.

124. Upon information and belief, young persons are not placed directly at Brookwood, but rather, are transferred from other training schools to Brookwood.

125. Brookwood is a one-story, multi-winged building in which the school, medical, recreational, food, administrative and residential services are located. The doors to the building are locked. The courtyard in front of the building is enclosed by a ten-foot high, brick wall having one locked iron door entering and exiting.

126. Upon information and belief, Brookwood's population lives in four residential wings, one for boys and three for girls. Wing 1 only houses PINS boys, Wings 2 and 3 only house PINS girls

and Wing 4 houses girls with juvenile delinquent adjudications. Each young person sleeps in a separate room, about ten feet by ten feet, containing a bed, a dresser and a chair. At bedtime, 10:00 P.M., the door to each room is locked. Residents of each wing share a common bath and shower room.

127. Upon information and belief, Brookwood has four persons termed social workers, one full-time psychologist and one psychiatrist who is present one-half day per week. The Center also has a nurse on duty eight hours a day.

128. Brookwood's population is fed in a cafeteria in which extremely bland institutional food is served. The largest meal is served at lunchtime, while supper usually consists of a sandwich and side dish.

129. Upon information and belief, some young persons placed at Brookwood are assigned to three hours of school in the morning, while others are assigned to the afternoon sessions. However, quite often class are not held or individuals are not allowed to attend them. The classes are ungraded. Most of Brookwood's population attends encounter-type group sessions for 1 1/2 hours every weekday. The youths devote much time to cleaning their living quarters, and a few may work part-time for farmers in the surrounding area. The remainder of the young person's non-eating and non-sleeping time is spent playing ball, shooting pool or

"hanging out" in other ways. Boredom is the prevalent feeling amongst Brookwood's population.

130. Disciplinary methods extend from privilege restriction to isolation. Isolation most often takes place in the infirmary. The young person is locked in a ten by ten feet room which is, in the non-summer months, inadequately heated. The room contains a plank of wood onto which, if the young person so requests, a mattress will be placed. Such isolation may last for several days, during which time no social worker, psychologist, psychiatrist or other counselor will speak with the youth.

131. Plaintiff WILLIE BOSKET is eleven years old and has been in placement at Brookwood since his transfer there on September 19, 1974. From May 16, 1974 to September 19, 1974, he was in placement at Highland.

132. Plaintiff Bosket was adjudicated a PINS on December 11, 1973, upon a petition brought by his mother, Laura Bosket, in Family Court, New York County. Prior to such date, Plaintiff had been living with his mother and siblings in Manhattan, New York. Upon information and belief his father has been serving a prison sentence in Wisconsin for murder and armed robbery since some time prior to Plaintiff's birth.

133. The allegations in the petition were that Plaintiff

Bosket stayed out late at night and had not been attending school. His mother has acknowledged having management problems with him for some time.

134. Upon his PINS adjudication Plaintiff Bosket was placed with the Commissioner of Social Services at Wiltwyck School for Boys, a voluntary residential facility in Yorktown, New York, on December 18, 1973. While in placement there Plaintiff underwent psychological testing and was described as precocious, warm and empathetic. However, in order to reach his above-average intellectual and creative potential, Plaintiff was described as needing support from the adults in his life.

135. Plaintiff Bosket's placement at Wiltwyck was terminated on May 16, 1974, and Defendant Judge Louis A. Pagnucco ordered placement with the Division for Youth recommending that Plaintiff be sent to a Title III facility.

136. At Brookwood, Plaintiff Bosket is confined to his room or to the infirmary whenever he gets angry. He has been off the grounds once when he went to see a physician in Poughkeepsie. His family has not yet visited him at Brookwood although he was visited while at Highland.

137. Plaintiff Bosket does not like Brookwood. He believes he is being introduced to older, more institutionally experienced

youths. If he does not do as he is told he believes he will continue to be transferred from institution to institution. On the other hand he is afraid that if he does as he is told he will only learn to live in the institution and will never be capable of returning to and remaining in a family and community setting. He thus views his future as institutional and believes that he will soon graduate to Goshen Annex (a Title III secure facility for juvenile delinquents) and then enter the adult prison system.

138. Brookwood has failed to make an attempt to establish an individualized program designed to meet Plaintiff Bosket's particular needs. However, even if Brookwood were to make such an attempt, its effectiveness would be severely limited because of Brookwood's inherent inability to promote positive family and community relationships for any member of its population. The staff is unable to have consistent contact with his family or those members of the community who will help him adjust successfully to community life. Although Defendants have assigned to him an aftercare worker, he works in New York City and Plaintiff has not seen him.

139. Brookwood's inability to provide Plaintiff Bosket with adequate and appropriate treatment is typical of the training schools' inability to provide any member of the class which he

represents with adequate and appropriate treatment.

STATEMENT OF LEGAL CLAIMS

140. For Plaintiffs' claims, each enumerated below, they reallege paragraphs "1" through "138" above, as are fully set forth herein in each statement of claim, and further allege:

First Claim

141. Defendants' acts in placing Plaintiffs in New York State Training Schools which are geographically distant from Plaintiffs' families, friends and communities based solely upon PINS adjudications constitute cruel and unusual punishment per se in violation of Plaintiffs' rights under the Eighth Amendment of the United States Consitution.

Second Claim

142. Plaintiffs' placement by Defendants in New Y rk State Training Schools wherein Plaintiffs' movement is restricted to the confines of the facility and wherein their ability to associate with other persons is limited to those at the facility violates Plaintiffs' First Amendment rights to freedom of travel and association.

Third Claim

143. Plaintiffs and their class have been deprived of their liberty or are subject to such deprivation based solely upon their status as PINS. Accordingly, under the due process clause of the Fourteenth Amendment to the United States Constitution, under the Ninth Amendment to the United States Constitution and under Article I, section 6 of the Constitution of the State of New York, such deprivation of liberty is justified only if Plaintiffs and their class in fact receive adequate and appropriate treatment. The State Training Schools, however, do not provide and are unable to provide adequate and appropriate treatment, and therefore Plaintiffs' and their class' placement in these institutions violates such rights.

Fourth Claim

144. Plaintiffs and their class have been or shall be deprived of their liberty by Defendants and placed into State custody without having received the full panoply of due process rights required in criminal proceedings. Accordingly, under the due process clause of the Fourteenth Amendment to the United States Constitution, under the Ninth Amendment to the United States Constitution and under Article I, section 6 of the Constitution of the State of New York, such deprivation of liberty is

justified only if Plaintiffs and their class in fact receive adequate and appropriate treatment. The State Training Schools, however, do not provide and are unable to provide adequate and appropriate treatment, and therefore Plaintiffs' and their class' placement in these institutions violates such rights.

Fifth Claim

145. Defendants' acts in placing Plaintiffs in New York State Training Schools which fail to provide them with adequate and appropriate treatment constitutes cruel and unusual punishment in violation of Plaintiffs' rights under the Eighth Amendment to the United States Constitution.

Sixth Claim

146. Placing Plaintiffs and their class in the State Training Schools when they can receive adequate and appropriate treatment in settings which are community-based, non-institutional and family-oriented violates Plaintiffs' rights to receive the least restrictive treatment alternative pursuant to the due process clause of the Fourteenth Amendment to the United States Constitution, the First and Ninth Amendments to the United States Constitution, and Article I, section 6 of the Constitution of the State of New York.

Seventh Claim

147. Plaintiffs and their class are placed into the State Training Schools, although persons found to have been a "neglected child" under §312 of the Family Court Act are not so placed. Since there is no rational basis for such distinction, the rights of plaintiffs and their class to receive equal protection under the law pursuant to the Fourteenth Amendment to the United States Constitution have been violated.

Eighth Claim

148. Defendants' failure and inability to provide adequate and appropriate training, care and rehabilitation to plaintiffs who are in or subject to defendants' custody at New York State Training Schools violates the Executive Law of the State of New York, §§501, 510, and 511 and the Family Court Act of the State of New York §§255, 711, and 732.

149. Plaintiffs have no plain, adequate or complete remedy at law to redress these wrongs; plaintiffs and the class they represent have suffered and will continue to suffer irreparable harm from the conditions set forth above unless and until the declaratory and injunctive relief sought herein is granted by the Court.

WHEREFORE, Plaintiffs respectfully demand:

A. That an order issue permitting this action to proceed as a class action.

B. That a judgment issue declaring that the acts and omissions complained of herein:

(1) constitute cruel and unusual punishment in violation of the rights of Plaintiffs and their class under the Eighth Amendment to the United States Constitution;

(2) violate the First Amendment rights of Plaintiffs and their class to freedom of travel and association;

(3) violate the rights of Plaintiffs and their class to receive adequate and appropriate treatment as required under the due process clause of the Fourteenth Amendment to the United States Constitution, under the Ninth Amendment to the United States Constitution, and under Article I, section 6 of the Constitution of the State of New York;

(4) violate the rights of Plaintiffs and their class to receive the least restrictive treatment alternative pursuant to the due process clause of the Fourteenth Amendment to the United States Constitution, the Ninth Amendment to the United States Constitution, the First Amendment to the United States Constitution, and Article I, section 6 of the Constitution of the State of New York;

(5) violate the Fourteenth Amendment right of Plaintiffs and their class to equal protection under the law;

(6) deprive Plaintiffs and their class of their rights under the Executive Law of the State of New York, §§501, 510 and 511 and the Family Court Act of the State of New York §§255, 711 and 732.

C. That Plaintiffs and their class be granted preliminary and permanent injunctions sufficient to rectify the unconstitutional acts and omissions and statutory violation alleged herein.

D. That the Court issue an order enjoining and restraining Defendants from placing or continuing the placement of Plaintiffs and their class in Hudson State Training School, Highland State Training School, Tryon State Training School and Brookwood Center.

E. That Defendants be further enjoined and restrained from transferring Plaintiffs and their class to alternative facilities unless Defendants can provide evidence satisfactory to this Court that the alternative facilities do not suffer from the conditions herein complained of.

F. That this Court order Defendants, after consultation with attorneys for Plaintiffs and any experts designated by them, to submit to the Court and thereafter implement a plan for the transfer of any Plaintiffs and their class requiring out-of-family care

to community-based, non-institutional, familial programs and foster homes which do in fact provide adequate and appropriate treatment for Plaintiffs and their class. Where such programs do not exist Defendants shall be ordered to develop them.

G. That this Court retain jurisdiction over Defendants and each of them until such time as the Court is satisfied that their acts and omissions alleged herein no longer exist and will not reoccur.

H. That Plaintiffs be awarded the costs of this proceeding and such other and further relief as to this Court seem just and proper.

Dated: Brooklyn, New York
November 8, 1974

Respectfully submitted,

CHARLES SCHINITSKY, ESQ.
THE LEGAL AID SOCIETY

By: _____

Gene B. Mechanic and Michael J.
Dale, of Counsel
Attorneys for Plaintiffs
Office and P.O. Address
189 Montague Street
Brooklyn, New York 11201
Tel. No. (212) 858-1300

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

[C A P T I O N]

STIPULATION TO
AMEND COMPLAINT

-----X

IT IS HEREBY STIPULATED, CONSENTED TO AND AGREED by and between the undersigned attorneys for the parties herein that the complaint in the above-entitled action shall be amended as follows:

(1) Paragraph "147" is hereby amended and alleges the following:

"Seventh Claim

147. Plaintiffs and their class are placed into the State Training Schools, although persons found to have been a "neglected or abused child" under §1012 of the Family Court Act are not so placed. Since there is no rational basis for such distinction, the rights of Plaintiffs and their class to receive equal protection under the law pursuant to the Fourteenth Amendment to the United States Constitution have been violated."

(2) Following paragraph "149" the complaint is hereby amended and alleges the following:

"WHEREFORE, Plaintiffs respectfully demand:

A. That the Court convene a three-judge district court pur-

suant to Title 28 U.S.C. §2281 and §2284 to determine this controversy.

B. That an order issue permitting this action to proceed as a class action.

C. That a judgment issue declaring that the acts and omissions complained of herein:

- 1) constitute cruel and unusual punishment in violation of the rights of Plaintiffs and their class under the Eighth Amendment to the United States Constitution;

- 2) violate the First Amendment rights of Plaintiffs and their class to freedom of travel and association;

- 3) violate the rights of Plaintiffs and their class to receive adequate and appropriate treatment as required under the due process clause of the Fourteenth Amendment to the United States Constitution, under the Ninth Amendment to the United States Constitution, and under Article I, section 6 of the Constitution of the State of New York;

- 4) violate the rights of Plaintiffs and their class to receive the least restrictive treatment alternative pursuant to the due process clause of the Fourteenth Amendment to the United States Constitution, the Ninth Amendment to the United States Constitution, the First Amendment to the United States Constitution,

and Article I, section 6 of the Constitution of the State of New York;

5) violate the Fourteenth Amendment right of Plaintiffs and their class to equal protection under the law;

6) deprive Plaintiffs and their class of their rights under the Executive Law of the State of New York, §§501, 510 and 511 and the Family Court Act of the State of New York §§255, 711 and 732.

D. That Plaintiffs and their class be granted preliminary and permanent injunctions sufficient to rectify the unconstitutional acts and omissions and statutory violation alleged herein.

E. That the Court issue an order enjoining and restraining Defendants from placing or continuing the placement of Plaintiffs and their class in Hudson State Training School, Highland State Training School, Tryon State Training School and Brookwood Center.

F. That Defendants be further enjoined and restrained from transferring Plaintiffs and their class to alternative facilities unless Defendants can provide evidence satisfactory to this Court that the alternative facilities do not suffer from the conditions herein complained of.

G. That this Court order Defendants, after consultation with attorneys for Plaintiffs and any experts designated by them, to

submit to the Court and thereafter implement a plan for the transfer of any Plaintiffs and their class requiring out-of-family care to community-based non-institutional, familial programs and foster homes which do in fact provide adequate and appropriate treatment for Plaintiffs and their class. Where such programs do not exist Defendants shall be ordered to develop them.

H. That this Court retain jurisdiction over Defendants and each of them until such time as the Court is satisfied that their acts and omissions alleged herein no longer exist and will not reoccur.

I. That Plaintiffs be awarded the costs of this proceeding and such other and further relief as to this Court seem just and proper.

Dated: Brooklyn, New York
December , 1974

CHARLES SCHINITSKY, ESQ.
The Legal Aid Society
Attorney for Plaintiffs

By

GENE B. MECHANIC, ESQ.
189 Montague Street
Brooklyn, New York 11201
Tel. No. (212) 858-1300

LOUIS J. LEFKOWITZ
Attorney General of the
State of New York
Attorney for Defendants

By

MARGEY EVANS FEIFLER
Deputy Assistant Attorney
General
Two World Trade Center
New York, New York 10047
Tel. No. (212) 488-7590

- - - - -X

[C A P T I O N]

NOTICE OF MOTION

- - - - -X

S I R S :

PLEASE TAKE NOTICE, that upon the complaint and summons herein, dated November 12, 1974, the stipulation to amend the complaint, dated December , 1974, and the annexed affidavit of MARGERY EVANS REIFLER, Deputy Assistant Attorney General, sworn to the 8th day of January, 1975 the undersigned will move this Court before Judge Gagliardi at Courtroom 705, United States Courthouse, Foley Square, City of New York, upon submission, on the 5th day of February, 1975 at 4:00 in the forenoon, for order pursuant to Rules 12(b)(1) and (6) of the Federal Rules of Civil Procedure, dismissing the complaint for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted, and for such other and further relief as the Court may deem just and proper.

Dated: New York, New York
January 8, 1975

Yours, etc.,

LOUIS J. LEFKOWITZ
Attorney General of the
State of New York
Attorney for Defendants
Office & P.O. Address
Two World Trade Center
New York, New York 10047

By

/s/ MER

MARGERY EVANS REIFLER

Deputy Assistant Attorney
General

Tel. No. (212) 488-7590

TO: CHARLES SCHINITSKY, ESQ.
The Legal Aid Society
189 Montague Street
Brooklyn, New York 11201

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[C A P T I O N]

AFFIDAVIT IN SUPPORT
OF DEFENDANTS' MOTION
TO DISMISS

- - - - -X

STATE OF NEW YORK)

: SS.:

COUNTY OF NEW YORK)

MARGERY EVANS REIFLER, being duly sworn, deposes and says:

1. I am a Deputy Assistant Attorney General in the office of LOUIS J. LEFKOWITZ, Attorney General of the State of New York, attorney for defendants herein. I submit this affidavit in support of defendants' motion to dismiss the complaint. The information contained in this affidavit was obtained from the New York State Division for Youth (hereinafter DFY).

2. In their complaint, plaintiffs make reference to DFY facilities other than Title III training schools (Complaint, ¶ 43). Contrary to the allegations of the complaint, these are not all Title II facilities, and they are not all located in the State's largest cities. In order to clarify this subject a copy of the 1975 DFY Directory of Facilities and Services for Youth is annexed hereto as Exhibit "A".

3. Plaintiffs allege that they are geographically distant from their homes and communities and that this involuntary isolation from their families, friends, and communities

constitutes cruel and unusual punishment (Complaint ¶¶49, 142). What plaintiffs fail to mention is that each training school provides for home visits as well as visits at the school from relatives and friends. Accordingly, defendants wish to bring this information to the Court's attention.

4 At Hudson Training School, Hudson, New York parents* and relatives may visit a PINS during any scheduled visiting hours. Friends may visit if accompanied by a parent or with written permission of the parent. Visiting hours are daily from 9-4; the school requests that advance permission be obtained for Saturday visits. Parents are allowed to take their child off campus with the permission of his cottage counsellor.

5. Home visits by a PINS are allowed as an incentive for a child's progress at the school or to encourage his progress. These visits usually last from four days to two weeks and usually occur over holidays.** There is no waiting period before a PINS can be granted a home visit. Community visits are permitted when a child is close to release, to acclimate the child back to his home or explore an alternative facility or program.

* As used in this affidavit, parents refers to natural parents, foster parents and legal guardians.

** As used in this affidavit, holidays refers to state and federal holidays, like Washington's Birthday, as well as Christmas and Easter.

6. At Highland Training School, Highland, New York any interested adult or child can visit a PINS at any time with no prior approval. If the school has reason to believe that the parent would object to a friend's visit, it will call the parent for clearance. Discretionary staff supervision of visits is permitted. There are no set visiting hours or days. Children are allowed off-campus with visitors for shopping, dinner, etc. with the approval of their cottage coordinator. Home visits are allowed for a two month stay at the facility. The requirement may be waived for weddings, funerals, etc. The visits last from one to three weeks; the average visit is ten days.

7. Brookwood Center in Claverack, New York serves PINS who have been placed in another training school and have not adjusted there. Relatives, and friends accompanied by an adult relative, can visit a PINS with no prior approval. Visiting hours are weekdays 10-4 and alternate Sundays at reasonable hours. On Saturdays and holidays the school requests advance approval of any visit. At the present time off-campus trips with visitors are usually not allowed; this policy is being reevaluated by the school's new superintendent.

8. Home visits are presently allowed after a five month stay at the school; reduction of this period to three months is presently under review. Exceptions may be made for special occasions. The first home visit usually lasts two days to one week. Subsequent visits are usually of one to two weeks duration. Visits usually coincide with holidays.

9. Tryon Training School, Johnstown, New York is divided into secure and non-secure sections. Visiting rules are the same for both. Parents can visit without permission on Saturdays, Sundays, and holidays from 10-5. At other times advance notice is requested. Friends and other relatives can visit on Saturdays, Sundays, and holidays (10-5) with the advance permission of the child's cottage coordinator. Visits are not allowed until a child has been at the school for two weeks, except in special cases. For those in the open program, off-campus trips with a parent are allowed with the cottage coordinator's permission. Those in the secure program must obtain a certain level of adjustment within their group before off-campus trips are allowed.

10. Those children in the open program are allowed a birthday weekend visit, after they have been at the school for one month. After one month's stay they are also allowed regular home visits which usually coincide with holidays. The average regular home visit is one week, with longer stays at Christmas and Easter. Those in the secure program are allowed both types of home visits after they have attained a certain level within their group.

11. The decision to grant a PINS a home visit is based on several criteria, including his adjustment at the school, his home situation, the risk to him, etc. Children without homes to visit are allowed visits to half-way houses.

Rules regarding home visits can be waived for emergencies, special occasions, etc.

12. Although there are visiting schedules at some of the schools, the schools try to be flexible about allowing unscheduled or unapproved visits. Visiting privileges are never denied as a disciplinary tool.

13. As is developed more fully in the accompanying memorandum of law, it is defendants' position that the complaint should be dismissed.

WHEREFORE, defendants' motion to dismiss should be granted in all respects.

/s/ MEF

MARGERY EVANS REIFLER

Sworn to before me this
8th day of January, 1975

Assistant Attorney General
of the State of New York

[Division For Youth Directory of
Facilities and Services for Youth
Omitted.]

Exhibit "A"

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
:
[C A P T I O N] :
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:
-----X

AFFIDAVIT IN OPPOSITION
TO DEFENDANTS' MOTION
TO DISMISS

STATE OF NEW YORK)
: ss.:
COUNTY OF KINGS)

GENE B. MECHANIC, being duly sworn, deposes and says:

1. I am an attorney duly admitted to practice before this Court and am of Counsel to CHARLES SCHINITSKY, ESQ., The Legal Aid Society, attorney for the Plaintiffs herein. I submit this affidavit in opposition to defendants' motion to dismiss the action herein.

2. The substance of defendants' affidavit in support of their motion to dismiss the action is directed at Plaintiffs' freedom to associate and to travel and to the contact which Plaintiffs have with their family and friends. Plaintiffs reply to these allegations in the following paragraphs.

3. Upon information and belief, the Plaintiffs rarely see their family and relatives and never see responsible members

of the community to which they will return while in placement at the training schools. The schools are relatively inaccessible, and costs of travel to them are prohibitive for the many families who are poor and receiving welfare. In fact, Plaintiffs' parents are even forced to pay the costs for Plaintiffs' infrequent home visits. Moreover, there is virtually no interaction between the youngsters and the small communities near the training schools. Few volunteer programs exist. In fact, many of the people in these towns are afraid of the training school children and don't want them to be nearby.

4. For example, during my last visit to Tryon, I viewed a television program in which persons interviewed from the nearby town of Perth unanimously agreed that they did not want the Tryon youths in their community. The people said they were afraid of these young people and showed guns which they said they kept to protect themselves.

5. All the training schools are located in rural settings in rural counties. Tryon is located in Fulton County several miles outside Johnstown, New York, a town of approximately 10,000 people. Tryon is approximately 290 miles from Buffalo, 135 miles from Binghamton and 185 miles from New York City. AMTRAK train service from New York City to Amsterdam, approximately 20 miles from the school is available three times per day at \$20.00 round trip. Fulton-Montgomery Community College, a two-year institution,

is the only institution of higher learning in Fulton County.

6. Upon information and belief, Plaintiff Angel George, who is presently on parole from Tryon, rarely visited home or received visits from home when in placement at Tryon. He did not participate in nearby community activities. Furthermore, he was denied the right to make telephone calls to his lawyers.

7. Brookwood and Hudson are located in Columbia County approximately 3 and 5 miles, respectively, outside Hudson, New York, a city of less than 10,000 people. Hudson is approximately 330 miles from Buffalo, 355 miles from Jamestown, 140 miles from Binghamton and 120 miles from New York City. AMTRAK train service from New York City to Hudson is available six times per day at \$13.50 round trip. The only institution of higher learning in the county is Columbia-Greene County Community College, a new 2-year institution located in Athens, New York. The State University and Medical Center in Albany, over an hour's drive from any of the schools are too distant for ongoing programs and aren't used except in emergency medical situations. Columbia Memorial Hospital, a 186-bed facility is located in Hudson and is the county's only hospital. The hospital has two psychiatrists, one of whom is the part-time staff psychiatrist at Hudson and Brookwood.

8. Upon information and belief, Plaintiff Willie Bosket has been at Brookwood since September 19, 1974. From May 16, 1974 to September 19, 1974 he was in placement at Highland. Since his

arrival at Brookwood he has had only one home visit which occurred during the Christmas holidays. He has rarely been allowed to leave the locked facility at Brookwood for any reason. His freedom of movement is strictly limited. He has engaged in almost no off-grounds athletic, social or cultural activities.

9. Upon information and belief, Plaintiff Patricia McRedmond has been in placement at Hudson since July 15, 1974. Since her arrival there she has had only one home visit which occurred during the Christmas holidays. Although defendants state in their affidavit in support of their motion to dismiss that children are allowed birthday weekend home visits, Plaintiff McRedmond, whose birthday was August 11th, did not receive a home visit. Moreover, she has engaged in almost no off-campus activities and has seen and talked with almost no one but staff, other youngsters in placement and her mother since her arrival over seven months ago. At least Plaintiffs' mother, who owns a car and does not work presently has been able to make the costly and time-consuming journey to visit Plaintiff.

10. Highland is located in Ulster County several miles outside of Highland, New York, a town of approximately 5,000. The city of Poughkeepsie is approximately 10 miles away in Dutchess County on the other side of the Hudson River. There are three hospitals in Poughkeepsie, two of which have psychiatrists on staff. The two institutions of higher learning in Ulster County are Ulster

Community College in Stone Ridge and the State University at New Paltz. The children engage in no ongoing program involving these two colleges and no volunteers come to Highland. There is no AMTRAK train service to or near Highland.

11. There are several small private liberal arts colleges including Bard, Bennett, Marist and Vassar located in Dutchess County and within 30 miles of Highland, but no cooperative programs with the training schools exist.

12. Upon information and belief, Plaintiffs Rose Marie Tarasewich has been in placement at Highland Training School since September 26, 1974. Since that time she has had only two home visits. Within Highland's "level" system, home visits are used as a disciplinary tool. In addition, as her affidavit in support of Plaintiffs' motion for a preliminary injunction shows she has rarely been allowed to leave the Highland grounds for any reason. Nor has she had any contact with adults or young people from the communities surrounding Highland or from her home community on Staten Island.

13. Upon information and belief, Plaintiff Robert Sosa has been in placement at Highland since June 5, 1974. Since then his only home visit took place during the Christmas holidays. He has rarely been allowed to leave the Highland grounds. Nor has he had any contact with adults or young people outside the institution.

WHEREFORE, based upon the above and for the reasons set forth in the accompanying memorandum of law the motion to dismiss the complaint should be denied in all respects.

/s/ Gene B. Mechanic

GENE B. MECHANIC

Sworn to before me this
20th day of February, 1975

/s/ Delzorra Presha

DELZORRA PRESHEE

MEMORANDUM

SUPREME COURT : HINDS COUNTY (SPECIAL TEN 1, PART 1)

In the Matter of the Application of
RICHARD J. DILL, etc.

Petitioner,

vs.

JAMES P. JOHNSON, etc. et al
Respondent

By BECKINBACH, J.

Dated January 12, 1975

Index No. 143/75

The petition in this Article 78 proceeding is dismissed. The infant whose guardian ad litem makes this application was adjudged a neglected child by the Family Court pursuant to Article 10 of the Family Court Act. Section 1013(a) of that Act states "The family court has exclusive original jurisdiction over proceedings under this article alleging the abuse or neglect of a child." A consideration of the several sections contained in Part 6 of Article 10 of the Family Court Act demonstrates that it was the intention of the Legislature when it enacted Article 10 that every aspect of a proceeding relating to a neglected child is to be heard in the Family Court. Sections 1061 and 1062 of the Family Court Act accord petitioner a method of accomplishing in the Family Court precisely what he seeks to accomplish in the instant Article 78 proceeding.

Settle judgment on notice.

J. S. C.

EXHIBIT "A"

EXHIBIT B

FAMILY COURT OF THE STATE OF NEW YORK
CITY OF NEW YORK : COUNTY OF KINGS

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In the Matter of :

KEVIN MORRISON :

Docket No. D13716/73

A Person Alleged to be a Juvenile
Delinquent

: DECISION AND ORDER

MEYER, J. . . .

Pursuant to the order of the Appellate Division of the State of New York, Second Judicial Department, dated July 8, 1974, respondent's law guardian was afforded an opportunity for an independent medical, psychiatric and psychological examination and evaluation. All necessary medical and other records requested were made available to the examiners.

Upon receipt of the report of the law guardian's psychiatrist, Dr. Irwin Potkewitz, a copy of which is appended hereto, a re-hearing upon notice was scheduled for October 29, 1974. Neither the respondent nor any parent or guardian appeared at said hearing, respondent having allegedly absconded from placement with the New York State Division for Youth, Title III, according to a representative of Division for Youth (DFY) present in court.

The absence of respondent from the court made it impossible for the court to make a re-determination with respect to its prior finding and to proceed as directed by the aforesaid order of the Appellate Division until December 23, 1974 when respondent was returned to the court on a warrant. It is well settled that a respondent must be present at all stages of proceedings against him. See Matter of Anthony B. 43 A.D. 2nd 688 (1) (1st Dent. 1973). On said date, respondent appeared with his attorney and guardian at which time the

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court received the report of the law guardian's psychiatrist and proceeded to make its re-evaluation of its prior disposition as required by the aforesaid order of the Appellate Division.

After reviewing the results of the study conducted by the law guardian's psychiatrist, the court is of the opinion that the study does not alter the court's decision placing the respondent with Division for Youth Title III.

-2-

Section 731 of the Family Court Act refers to proceedings to determine whether a respondent is a person who "requires supervision, treatment, or confinement". Clearly Dr. Potkewitz's report indicates that the respondent is such a person. The Court refers to page 3 of Dr. Potkewitz's report wherein he states:

Because of his poor judgment, lack of insight and history of assaultive behavior, I feel that Kevin is a danger to others. He is in need of a highly structured, well-ordered environment that can provide him with the remedial, vocational and therapeutic services he requires to improve his self image and esteem.

Dr. Potkewitz states that Kevin needs additional therapy. It is regrettable that DFY does not appear to be able to provide the intensive amount of therapy which Dr. Potkewitz recommends, but at the same time, it is encouraging to the court that Dr. Potkewitz reports that "Kevin has developed a special relationship with the cottage father, going fishing with him and spending weekend days visiting his family." (See page 2 of Psychiatric Evaluation). It would appear that Kevin is finally receiving the assistance of a positive and supportive male therapist with whom he might receive direction, and with whom he can identify as recommended by the Family Court clinic in December 1973.

Section 731 of the Family Court Act is phrased in the disjunctive, and the determination of the court must be that a respondent is in need

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of supervision, treatment or confinement. Clearly, on the basis of all reports, Kevin needs a structured setting, supervision, and confinement. According to Dr. Potkewitz, "he is a danger to others". Society has a right to protection from him. The Court is convinced that its prior disposition of placement in DFY Title III was proper and that Kevin is a delinquent person in need of the services of this agency,

The Family Court is presently without authority to supervise the type and amount of care and treatment afforded respondents by DFY. The Executive Law, Section 510, subdiv. 3 and Section 511, subdiv. 3 leaves these decisions to the professional expertise of the Division

-3-

and its staff. Respondents placed in Title III facilities are within the jurisdiction of DFY. Family Court jurisdiction over respondents terminates once placement is made. (See also Executive Law Section 517 pursuant to which a child transferred by DFY to the Department of Mental Hygiene stays within the jurisdiction of DFY). While the Court is mindful that the respondent may need more therapeutic treatment than that which Warwick is currently providing, it nevertheless is beyond the power of the Family Court to interfere with the treatment decisions and policies of DFY. Matter of Terrance C.; 45 A.D. 2d 825 (1st Dept.

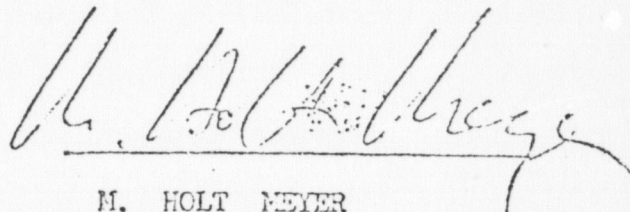
1974). The Family Court will, however, furnish DFY with a copy of Dr. Potkewitz's report which it may find helpful in the treatment and care of Kevin.

For the reasons stated above, the Court finds that the initial placement of Kevin Morrison to Division for Youth Title III was proper when made and in his best interest.

Notify attorneys and Division for Youth

ENTER

B-4

A handwritten signature in dark ink, appearing to read "M. Holt Meyer", is written over a horizontal line.

M. HOLT MEYER

JUDGE FAMILY COURT

DATED: January 3, 1975

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[C A P T I O N] :
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NOTICE OF MOTION

S I R S :

PLEASE TAKE NOTICE that upon the complaint, the affidavit of GENE B. MECHANIC dated the 21st day of February, 1975, and all affidavits and exhibits submitted therewith, plaintiffs will move this Court on the 4th day of March, 1975, at the Courthouse at Foley Square, New York, New York at 4:00 p.m. in Room 1106, before Hon. Lee P. Gagliardi, for an order pursuant to Rule 65 of the Federal Rules of Civil Procedure,

(1) preliminarily enjoining and restraining Defendants from placing or continuing the placement of the named Plaintiffs and their class in Hudson State Training School, Highland State Training School, Tryon State Training School and Brookwood Center;

(2) preliminarily prohibiting Defendants from transferring the named Plaintiffs and their class to alternative facilities unless Defendants can provide evidence satisfactory to this Court that the alternative facilities do not suffer from the conditions herein complained of;

(3) requiring the transfer of any named Plaintiffs and members of their class requiring out-of-family care to community-based, non-institutional, familial programs and foster homes which do in fact provide adequate and appropriate treatment for Plaintiffs and their class. Where such programs do not exist Defendants shall be ordered to develop them;

And for such other and further relief as to the Court may seem just and proper.

Dated: Brooklyn, New York
February 21, 1975

Yours, etc.

CHARLES SCHINITSKY, ESQ.
The Legal Aid Society
Attorney for Plaintiffs
189 Montague Street
Brooklyn, New York 11201
by

/s/ Gene B. Mechanic
GENE B. MECHANIC, ESQ.

TO: LOUIS J. LEFKOWITZ
Attorney General of
the State of New York
Two World Trade Center
New York, New York 10048
ATT: Margery Reifler,
Deputy Assistant Attorney
General

-----X
:
:
[C A P T I O N] :
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-----X

AFFIDAVIT IN SUPPORT
OF MOTION FOR PRELIM-
INARY INJUNCTION

STATE OF NEW YORK)
 : ss.:
COUNTY OF KINGS)

GENE B. MECHANIC, being duly sworn, deposes and says:

1. I am an attorney duly admitted to practice before this Court and am of Counsel to CHARLES SCHINITSKY, ESQ., The Legal Aid Society, attorney for the Plaintiffs herein. I submit this affidavit in support of Plaintiffs' motion for a preliminary injunction.

2. In this civil rights action, Plaintiffs have been adjudicated Persons In Need of Supervision (PINS) by the Family Court of the State of New York and placed into one of the four New York State Training Schools for PINS -- Highland, Hudson, Tryon and Brookwood Center. Plaintiffs allege that the juvenile justice system, from the time of their initial contacts with it, has utterly failed to adequately and appropriately deal with their problems.

3. Plaintiffs claim that their training school placement is violative of the Eighth Amendment because it is cruel and punitive. It also unreasonably restricts their First Amendment right to associate and their right to travel. Moreover, they allege that they are not receiving the rehabilitative treatment which they have a right to receive under the due process clause, the Eighth Amendment, and state law. Finally, Plaintiffs contend that their placement violates their rights to the least restrictive alternative treatment and equal protection under the law.

4. Plaintiffs' need for preliminary relief is amply demonstrated in their previously submitted complaint, the affidavits annexed hereto, and the memorandum of law submitted herewith. Plaintiffs' frustration, depression, boredom and confusion as a result of their placement in large, rural institutions far from their homes is most clearly illuminated in the Affidavits of Patricia McRedmond, Robert Sosa, Rose Marie Tarasewich and Willie Bosket, annexed hereto. The geographic isolation and restrictions inherent in training school placement is discussed further in your deponent's affidavit in opposition to Defendants' motion to dismiss.

5. Upon information and belief, the state training school program is not providing Plaintiffs with rehabilitative treatment. Dr. Esther Rothman, in her Affidavit annexed hereto, discusses her finding that Willie Bosket and Patricia McRedmond are being greatly harmed by their training school placement.

Most importantly, in paragraph "8" of her Affidavit, Dr. Rothman expresses her opinion that "it is virtually impossible to get well-trained persons to work in the isolated areas in which" the state training schools are located. In her judgment, "the placement of PINS in the State Training Schools can only cause them further harm."

6. Furthermore, Sylvia Honig, in her Affidavit annexed hereto, explains that as a social worker at Hudson, she deals with children who are receiving little education, nutrition, recreation, medical and psychiatric care and love while confined to the training school. Rather, she says, the girls face boredom, frequent isolation, and prevalent homosexuality. She says placement at Hudson constitutes a "grave danger" to the welfare of the children there. Your deponent refers the Court to the fact that Ms. Honig has testified before the New York State Assembly Ways and Means Committee and the Senate Finance Committee. See Exhibit "D" annexed hereto.

7. In fact, Defendant Milton Luger, the Director of the State Division for Youth, has stated that his agency has not been able to recruit well-trained staff for their institutions. Moreover, he has said that "[w]ith the exception of a relatively few youths, it probably would be better for all concerned if young delinquents were not detected, apprehended, or institutionalized. Too many of them get worse in our care." See Exhibit "E" annexed hereto.

8. The reluctance of the Family Court to fulfill their statutory mandate and make appropriate orders of disposition for Plaintiffs is demonstrated by Defendant Judge Joseph A. Deutsch's and former Administrative Judge Florence M. Kelley's refusal to act when the former superintendent of Hudson, Thomas E. Tunney, urged them to vacate the placement of Plaintiff Angel George at Hudson. Mr. Tunney, with support from Hudson's part-time psychiatrist, expressed his belief that Plaintiff George needed more individualized care than the training school could provide. Upon information and belief, the judges did not respond to Mr. Tunney's request, first made on February 26, 1974, for a new dispositional hearing. See Exhibit "C" and "D" annexed hereto.

WHEREFORE, based on the above, the previously submitted complaint and the affidavits and exhibits annexed hereto and for the reasons set forth in the memorandum of law submitted herewith, Plaintiffs' motion for a preliminary injunction should be granted in all respects.

/s/ Gene B. Mechanic
GENE B. MECHANIC

Sworn to before me
this 21st day of February, 1975

/s/ Delzorra Presha
DELZORRA PRESHA

-----X
:
:
[C A P T I O N] :
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:
-----X

AFFIDAVIT IN SUPPORT OF
MOTION FOR
PRELIMINARY INJUNCTION

STATE OF NEW YORK)
: ss.:
COUNTY OF COLUMBIA)

PATRICIA McREDMOND, being duly sworn, deposes and says:

1. I am a sixteen-year-old named plaintiff in the above-entitled action who has been in placement at Hudson State Training School since on or about July 15, 1974, when, pursuant to the order of defendant Judge Glasser, I was adjudicated a "person in need of supervision" (PINS) based upon a petition brought by my mother Eileen McRedmond, in Family Court, Kings County. I submit this affidavit in support of plaintiffs' request for preliminary relief.

2. Upon information and belief, I was adjudicated a PINS because the Family Court found that I absconded from my mother's home on September 6, 1973, and was beyond her control.

3. As a result of the conditions at Hudson, my mental and physical state has been rapidly deteriorating. I am treated like an animal and have become so nervous that my hands constantly

shake. I have seen Dr. Jarrett, the institution's "psychiatrist," three times for fifteen minutes each time since I have been at Hudson, but he merely prescribed that I take two to six pills of some drug a day. I have not been informed of the kind of drug I am taking, although one day I took twelve pills. I have talked to the institution's "psychologist" only once, when I first arrived.

4. Upon my arrival at Hudson, I was assigned to residential building "4". About twenty girls live in this depressing red brick institutional-looking building. I am presently living in this same building, although from January 9, 1975, to January 27, 1975, I was locked up in building "E", Hudson's secure detention facility.

5. While in "4", I am rarely allowed to leave the building except when I have to attend my six to nine hours of class each week in the administration building. In fact, on January 27, 1975, at approximately 2:00 p.m., I was about to step outside so I could sit down and think peacefully when Ms. Robinson, a staff person in "4", scratched and pushed me away from the door while screaming that I "better get the hell back in this cottage." Although following my shock, I realized that her assault produced deep nailmarks on my neck as well as three large bruises, I was unable to see the nurse, who had already gone off duty. The next day I asked my coordinator, Ms. Stevenson, if I could see the nurse, but upon information and belief, they never contacted her.

6. The staff with whom I come into contact show no affection or sincere concern for me or the other girls at Hudson. During school in the administration building, the teachers have either refused or have been too busy to help me complete in-class assignments when I requested to be helped. Thus, even the nominal amount of six to nine hours of class each week does not amount to nearly that many hours of teaching. In addition, we receive little assistance during the hour or so per weekday that we spend in the residential building supposedly working on after-school assignments.

7. I have one and one half hours of group meetings every weekday. However, once again the staff who are usually present at these meetings act as accusers, not counselors. They promote antagonism amongst the girls by using profanity and criticizing girls for not performing as they deem proper during that or the prior day. Little attempt is made to discover individual programs which will help me and the other girls to develop into stable and constructive human beings. I leave many group meetings crying.

8. All the girls at Hudson, other than those in "E" who are treated more severely, face the same boredom every day. We spend our time, when not in class or group meetings, sitting alone in our rooms, cleaning up after meals consisting of greasy food which, upon information and belief, lacks necessary nutrition, playing cards, listening to records or smoking cigarettes. Upon information and belief, with the transfer of the last boys from

Hudson, the already prevalent homosexuality amongst the girls, "the racket," has increased.

9. Although when I first arrived I could visit the small town of Hudson on Saturdays, I have been denied such privilege since August, 1974. Presently, no girls are allowed to visit the town.

10. Since my placement at Hudson, my mother has been forced to make a time-consuming and costly journey in order to visit me. I have had one home visit during Christmas, the cost of which I had to pay.

11. On January 9, 1975, I ran away from Hudson. As soon as I left the grounds, I called my mother who talked me into returning to Hudson, which I did immediately. However, upon my return I was searched by the staff, deprived of my jewelry, threatened with beatings and locked up in "E". At about 11:00 p.m. on January 9th, I was thrown into a room on the first floor which was stripped of all furniture. A thin mattress was on the floor and I was given pajamas. I was locked up until 8:00 a.m. the following morning, when I was assigned a room on the second floor.

12. I remained in the detention building until January 27, 1975. I was not allowed to leave the building at all, not even for school classes. I spent more time confined to my room in "E" than I spent while in "4". The door to my room in "E"

was locked at 8:00 p.m. every night. I went to group meetings in "E" and read some history and social studies. Otherwise, I had nothing more to do than eat, clean up, play cards, play bingo or watch television and smoke cigarettes.

13. When I was returned to "4" on January 27, 1975, I was assigned to the "behavior modification unit" ("BMU"). Upon information and belief, I am given points for my daily clean-up and behavior, and if I perform inadequately I will be denied cigarettes or forced to perform more work.

14. Mr. Wisdom, the Division for Youth aftercare worker who has been assigned to my case, has not visited me at Hudson. Upon information and belief, my mother has rarely seen or talked with Mr. Wisdom since my placement.

15. Rather than enhancing my positive adjustment to community and family life, the above-described acts and omissions of defendants are causing irreparable injury to my mental and physical condition. Defendants encourage my dependency on drugs to deal with my perpetual state of depression and curse at me or assault me if I attempt to assert some independent thinking. They have isolated me from my friends, family and community by confining me in an institution whose population contains girls who have difficulty coping with the expectations that society has for adolescent girls. They have unjustly locked me up in a stripped room. They refuse to supply me with an adequate education or appropriate therapy.

WHEREFORE, your deponent respectfully prays that this Court enter an order preliminarily enjoining defendants from continuing your deponent's placement in Hudson State Training School and for such other and further relief as to the Court may seem just, proper and equitable.

/s/ Patricia McRedmond

PATRICIA McREDMOND

Sworn to before me this 7th
day of February, 1975.

/s/ Lillian E. Cort

LILLIAN E. CORT

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AFFIDAVIT IN SUPPORT OF
MOTION FOR
PRELIMINARY INJUNCTION

STATE OF NEW YORK)
 : ss.:
COUNTY OF ULSTER)

ROBERT SOSA, being duly sworn, deposes and says:

1. I am a named plaintiff in the above-entitled class action and make this affidavit in support of the motion for a preliminary injunction.

2. I am fourteen years old and have been in placement at Highland Training School since June 5, 1974. I was first subjected to Family Court jurisdiction on November 16, 1970, when my mother brought a PINS petition against me. On November 17, 1970, I was paroled to my mother after being adjudicated a PINS by the Family Court, because I sometimes stayed out overnight with neighborhood friends, did not go to school and because my mother indicated she couldn't handle me.

3. On July 22, 1971, I was placed with the Commissioner of Social Services when my mother refused to keep me. After

running home to my mother from Children's Center, the temporary shelter for children operated by the Commissioner, I was placed at Mission of the Immaculate, Overbrook Center for Children (then a D.F.Y. Title III facility), and subsequently upon revocation of parole to Highland.

4. While in placement at these facilities, I have been continuously embarrassed by my low reading level and as a result have often not attended school. I have also been the subject of harassment by boys bigger and older than myself. I have been faced with these problems since my arrival at Highland. But recently, they have grown worse.

5. On numerous occasions in December and January, I've been forced into fights and subjected to ridicule. I have been accused of raping another boy's sister and other boys have called my mother a whore. My housefather recently threatened to beat me up.

6. In a group meeting early in January, one boy said he didn't want me in the cottage because I'm Puerto Rican. He later threatened me and when I asked the staff member on duty if I could sleep in the detention room to be protected, I was told I couldn't. One boy suggested that I be transferred to another cottage so that when there were fights with the other cottage he could fight me. The counselors told me not to pay attention to any of this. There are no boys of Puerto Rican extraction in my

cottage and only two others to my knowledge at the school.

7. The day after this incident, while playing basketball, I got into a fight with the same boy. He pushed me to the floor, bit my nose and after the gym teacher broke it up, hit me on the back with a broom in the locker room causing black and blue marks. I also received scratches and banged my head.

8. Last month, on January 20th, I received a dislocated shoulder during a fight with another boy. During a group meeting, this boy cursed me out, called me a "Rican" and said he hated my guts. After school, at about 3:30 p.m., he asked me if I wanted to fight. He began to call me "Rican" in front of a counselor. He put his hand in my face, and I turned around, swung at him and the fight began. During the course of it I fell on my shoulder and my hand which began to swell up. To my knowledge, the counselor was getting a cup of coffee when the fight began.

9. At 7:30 that evening the nurse came and put a hot towel on my arm. My arm hurt terribly that night and I asked the nightworker in my cottage if I could please go to the hospital. He said no one was available to take me. The pain was quite intense, and I cried during the night. At 10:30 the next morning I was taken to the hospital where I learned a bone in my arm was out of place. They put my arm in a sling.

10. A week after I dislocated my shoulder I got into a fight with another boy who cursed me out. The counselor, Mr.

Watson, didn't say anything.

11. I do not believe I am receiving an adequate education at Highland. Because I'm so fearful of fights I hardly read anymore, although there is school in the morning. Reading classes are held on Tuesdays and Thursdays; I don't go to them very often because I am the only one in the class who wants to read and it thus becomes very distracting. Also, the school has a policy of changing teachers and classes every two months, and I no longer have Mrs. Winston who helped me.

12. Then at the end of January I learned that the entire staff of "Deer Cottage" where I live was being transferred to a new detention facility recently built on the grounds at Highland. The boys in my group are being transferred to other cottages. While in the new cottage, "Gopher", I will be away from some of the boys with whom I had fights which is good. I will now have to get to know an entirely new group of staff.

13. A major reason for my placement at Highland was my educational difficulties. Yet my reading deficiencies have not been corrected at Highland. I want to complete high school upon my release, but it seems that I will be no more better prepared to do so at that time than I was upon my placement.

14. Neither do I receive any psychiatric, psychological or other treatment at Highland. There are difficulties at home. Yet no one at Highland ever helps me with this. My aftercare

worker has never come here to talk with me. The group meetings only frighten me. There are many arguments, and fights sometimes break out.

15. Often the group meetings aren't even held. On the average, they take place three times per week. although five are scheduled each week. The counselor sometimes says he is too busy with paperwork.

WHEREFORE, your deponent respectfully prays that this Court enter an order preliminarily enjoining defendants from continuing plaintiff's placement at Highland Training School, and for such other and further relief as to this Court may seem just, proper and equitable.

/s/ Robert Sosa

ROBERT SOSA

Sworn to before me this
10th day of February, 1975

/s/ R. Bruce Willstaedt

R. BRUCE WILLSTAEDT

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AFFIDAVIT IN SUPPORT OF
MOTION FOR
PRELIMINARY INJUNCTION

STATE OF NEW YORK)
 : ss.:
COUNTY OF ULSTER)

ROSE-MARIE TARASEWICH, being duly sworn, deposes and
says:

1. I am a named plaintiff in the above-entitled
class action and make this affidavit in support of the motion
for a preliminary injunction.

2. I am thirteen years old and have been in place-
ment at Highland Training School since September 26, 1974. I
was adjudicated a PINS based upon a petition brought by my
mother, Loretta Tarasewich, on February 5, 1974, in Family Court,
Richmond County, and was placed into training school by order
of the court on September 23, 1974. My placement at Highland
was based upon a finding that I had absconded from my mother's
home on January 25, 1974.

3. During my stay here at Highland I have received

no therapy, instruction or treatment of any kind regarding my relationship with my family and peers.

4. I have not seen the psychiatrist since my arrival in September; I have seen the psychologist only occasionally when he tested my reading and math levels. I have never seen him for any other purpose except for two talks we had very recently at the end of January. At that time he asked me whether I thought I was ready to go home and what I had talked about with my lawyers. I have never received any other individual counseling.

5. I attend group meetings each afternoon for approximately one and a half hours at which time the girls in my group discuss the problems we have with each other. We rarely discuss the problems which caused us to be placed at Highland.

6. I am often afraid to speak out during these group sessions for fear of later retaliation from other girls for what I say. If I fail to participate in the program I am subject to having privileges taken away, such as attending movies and off-campus trips, or I will be ordered to sit in the lounge, lose smoking privileges, wash windows or be specifically told I may not talk with the staff.

7. I am also often subject to harassment by other girls as well as staff outside the group meetings because I speak my mind or otherwise express my opinion.

8. My life at Highland is exceedingly boring.

The school program is too easy for me, and it doesn't last long enough. I believe I have made some progress in reading but have lost some in math. I am not even allowed to speak Spanish at Highland despite the fact that I know and enjoy the language, and there are other kids with whom I can talk.

9. We don't have adequate recreation either. Off-campus trips take place only occasionally, and they are often cancelled because, we are told, the campus vehicles aren't working. The trips we do take consist of shopping in the nearby town and visits to local movies. There is almost nothing to do in the evenings but sit and listen to records.

10. I don't see how my stay here is helping me in any way. I don't know what I'm supposed to do to get home. The staff here has a "level" system -- until recently I was on the first level although I've been at Highland for four months. You must reach the third level in order to go home.

11. I don't think I am any different from when I came here except that I feel confined and often get depressed. Nothing is being done for me at all. I miss my family and cannot see them because it is too far and costs too much for them to come here.

WHEREFORE, your deponent respectfully prays that this Court enter an order preliminarily enjoining defendants from

continuing plaintiff's placement at Highland Training School
and for such other and further relief as to this Court may
seem just, proper and equitable.

/S/ ROSE-MARIE TARASEWICH
ROSE-MARIE TARASEWICH

Sworn to before me this
4th day of February, 1975.

/S/ ROSE M. BUCKRIDGE
ROSE M. BUCKRIDGE

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AFFIDAVIT IN SUPPORT OF
PRELIMINARY INJUNCTION

STATE OF NEW YORK)
 : ss.:
COUNTY OF COLUMBIA)

WILLIE BOSKET, being duly sworn, deposes and says:

1. I am a twelve-year-old named plaintiff in the above-entitled action who, pursuant to my adjudication as a "person in need of supervision" ("PINS"), was placed at Highland State Training School from May 16, 1974 to September 19, 1974, at which time I was transferred to Brookwood Center, where I have remained ever since. I submit this affidavit in support of plaintiffs' request for preliminary relief.

2. Upon information and belief, I was adjudicated a PINS based upon a petition filed by my mother, Laura Bosket, which alleged that I failed to attend school regularly and that I sometimes stayed out overnight.

3. As each day at Brookwood passes, I am less certain about my ability to cope with the expectations of and necessities

for community and family life. I become more frustrated and angrier each day that I am confined to this secure detention facility and must look outside my room through a window protected by a security screen.

4. From January 20, 1975, to January 30, 1975, I slept in a room in Brookwood's "Wing 5", which houses the infirmary. Most of the time there was only one other boy on the wing. Although during this period I was in a regular room, certain rooms on this wing are used to lock up and isolate members of Brookwood's population. I have been locked up in these stripped rooms for hours at a time on many occasions, including most recently on January 17, 1975.

5. On January 17, 1975, at about 8:00 p.m., I was playing on a stairwell banister when Bruce Kline, a staff person, falsely accused me of trying to commit suicide. Rather than taking me to a psychiatrist, psychologist, or even a social worker, he dragged me to an isolation room and punched me in my jaw when I refused to remove my clothes. I was eventually forced to remove my clothes and spend the night alone in a cold room wearing only my underpants. The room contained only a wooden bunk bolted to the wall. I was released at about 8:10 a.m. on January 18, 1975.

6. Most staff persons at Brookwood exhibit little concern for myself and other boys and girls within their custody. In fact, the persons who treat me most consistently as a reasoning human being are Brookwood's maintenance men. Too many other staff

persons are cruel to me. They often lie to me about what activities will be available on a given night. They not only use profanity when ordering me about, but often react violently and unnecessarily punch or shove me whenever I act out or attempt to assert some independence. For example, on January 14, 1975, my teacher, Philip Sproul, hit me on my jaw with a dictionary.

7. Brookwood does not provide me with an individualized program which is designed to meet my particular needs. I have less than three hours of school per weekday. I receive no individual therapy. I must attend a one-hour group meeting each weekday which, for the most part, concerns problems and solutions unique to institutions, rather than problems I must face in the community.

8. A common topic of discussion in our group meetings is the numerous fights amongst Brookwood's youths. Yet, fights are inevitable when sixty boys and girls, who are all PINS or juvenile delinquents, are confined in the same space for twenty-four hours per day. I am sometimes aggressive here because I am bored and I have no peers who can be used as examples for me to act differently.

9. My institutionalization is resulting in further detachment from my family. Because of the time and expense involved, my mother has not been able to visit me at Brookwood, although I did manage to see her during my Christmas home visit. Furthermore, my Division For Youth aftercare worker, Mr. Cruz, has visited me only twice at Brookwood.

10. I have been institutionalized too long and if I am to have any chance to live a normal and not anti-social life, I must return to the community immediately and there receive the care, concern, and treatment which Brookwood is not providing.

WHEREFORE, your deponent respectfully prays that this Court enter an order preliminarily enjoining defendants from continuing your deponent's placement in Brookwood Center and for such other and further relief as to the Court may seem just, proper and equitable.

/S/ WILLIE BOSKET
WILLIE BOSKET

Sworn to before me this
5th day of February, 1975.

/s/ Patricia J. Harpis
PATRICIA J. HARPIS

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AFFIDAVIT

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

ESTHER ROTHMAN, being duly sworn, deposes and says:

1. I am the principal of Livingston School, a special New York City public school for emotionally disturbed, aggressive and socially maladjusted girls located 29 King Street, New York, New York. I have held this position for 16 years.

2. I hold a doctorate in clinical psychology, which I received in 1957, and a Master's degree in education of exceptional children. I have been certified as a psychologist by the State of New York. My clinical internship in psychology was at University Hospital in New York City. I have taught at the Bellevue Psychiatric Hospital. Other positions I have held include Research Supervisor to the Shield of David Institute for Retarded Children, staff psychologist for Boys and Girls Service League, consultant to Center of Urban Education and Consultant to the federal government on the Job Corps. I am also a member of the

Citizen's Committee for Children and have served on its task force on the state training schools.

3. At the request of their mothers and their attorneys Gene Mechanic and Michael Dale, on February 17, 1975, I interviewed plaintiffs Willie Bosket at Brookwood Center, Claverack, New York, and Patricia McRedmond at Hudson State Training School, Hudson, New York. On the basis of my interviews and observations, I concluded that neither youngster was being properly treated at their respective institutions and, in fact, their continuing placement in these facilities is damaging any chance they have to lead healthy and constructive lives.

4. It is my judgment that Willie Bosket is seriously disturbed and requires intensive care and psychotherapy in a residential treatment center. In my opinion, without receiving such treatment, Willie will be capable of great violence. Brookwood is preparing Willie for such violence. He has a passive-aggressive personality with underlying schizophrenia and paranoid thinking. He vacillates between identifying with a passive mother and the aggressive father about whom he has been constantly reminded by his mother. He cannot tolerate being faced with the slightest frustration and when presented with such a situation he needs to prove his masculinity by acting out aggressively. Willie is very bright and charming, however, and he knows how to manipulate people to fulfill his desires.

5. In my opinion, Willie's pathological patterning is being fed and reinforced at Brookwood. Rather than providing insight therapy, Brookwood is permitting Willie to manipulate and intimidate staff members and other youths into following his demands. Since he is able to live out his aggressive fantasies at Brookwood he is becoming more seriously disturbed. The use of thorazine and strip-room confinement for Willie are anti-therapeutic. In fact, I understand that Willie was placed in a locked strip-room on February 16, 1975 allegedly for hitting a staff person and he spent the two hours in confinement destroying a foam rubber mattress, indicating that this repressive tactic only intensified his aggressions.

6. Patricia McRedmond is very depressed and searching for love. She is being repressed and totally damaged by her placement in Hudson. She has had difficulty relating to her mother but now she is being subjected to authority which she feels lacks love or concern. Therefore, her perception of authority figures has been and is being further damaged.

7. In my opinion, Patricia belongs in a nurturing community where she can attend a special school, receive vocational training or get a job immediately. She even expresses an interest in cosmetology. She is not a dangerous person and her training school placement serves no legitimate purpose. Additionally, her placement at Hudson is depriving her of the positive relationship which she has had with her grandparents in Brooklyn.

8. The institutional atmosphere and geographic isolation of Brookwood and Hudson contribute significantly to the facilities' failure to provide Willie and Patricia with adequate and appropriate treatment. Brookwood looks like a prison and egos cannot be developed in a building which spells "prison." Because of Hudson's and Brookwood's location it would appear that all but a few youths are unable to have frequent contact with their families and other persons with whom they have had positive relationships as well as other responsible members of the community to which they will return. These children are suddenly isolated from all they know and, as a result, became depressed, making their rehabilitation less likely than before they were placed. Furthermore, it is virtually impossible to get well-trained persons to work in the isolated areas in which Brookwood, Hudson and the other State Training Schools are located. In my opinion, the placement of PINS in the State Training Schools can only cause them further harm.

/S/ ESTHER ROTHMAN, Ph.D.
ESTHER ROTHMAN, Ph.D.

Sworn to before me this
20th day of February, 1975.

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/s/ Delzorra Presha
DELZORRA PRESHA

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AFFIDAVIT

STATE OF NEW YORK)
 : ss.:
COUNTY OF RENSSELAER)

SYLVIA HONIG, being duly sworn, deposes and says:

1. I am an Assistant Supervisor, of Youth Division Counselor, employed by the New York State Division for Youth at the Hudson School and make this affidavit in support of plaintiffs motion for a preliminary injunction in the above entitled action.

2. I first worked at Hudson for 15 months beginning 1965 until I left to pursue a course of study which led to my Master's degree in Social Work obtained at the State University at Albany in 1968. I subsequently worked at Wynantskill Center for Girls, then a state training school for girls facility from June, 1968, until June, 1971.

3. I returned to Hudson in June, 1971 and have worked there continuously since that time. My experience at Hudson has

included handling admission studies and interviewing youngsters. In addition, I have been a counselor in four of the large residential buildings named "C", "E", and "12" and, currently, Cottage "D", where I am a Youth Division Counselor. My daily observations over this extended period of time lead me to believe that the welfare of the children in placement at this institution has been and remains in grave danger. The girls (boys are no longer in residence at Hudson) receive no adequate therapy or treatment, medical problems are numerous, and many go untended. The educational program is inadequate, recreation is practically non-existent, food is often substandard in quality and preparation, and the staff is, for the most part, untrained and lacking in morale.

4. The institution's program is such that little or no therapy or treatment occurs. Specifically, there is no certified psychologist on the staff. There is only one staff member other than I with a Master's Degree in Social Work. The staff's training for supervising group meetings, the institution's expressed, although inadequate, treatment program or method, consisted of one week's study run by outside consultants. There is no in-service training.

The care given is custodial in nature. "One-to-one help rarely takes place despite repeated recommendations by the psychiatrist that such sessions take place on a regular basis. In fact, such help is discouraged. The group meetings are scheduled

each weekday for one and a half hours. They are, for the most part, destructive to the youths' mental health.

6. Rather than helping to resolve the girls' problems, many of the group meeting supervisors are constantly accusing the girls of having behaved badly, at times using profane language directed at the girls. Ironically, when the girls use profane language to the staff, they are subject to disciplinary restrictions and detention.

7. Upon information and belief, in Cottage "E", the semi-secure detention facility where Patricia McRedmond was isolated for a period of time, there is no clear program philosophy other than confinement. Some girls are retained in the Cottage "E" program for over a month without leaving the Cottage. Their recreation consists mainly of playing cards, watching television and one half hour per day of "motor activity."

8. Many of the girls at Hudson have medical problems; in particular, many complain persistently of stomach pains. Because of numerous complaints, the staff, at times, tends not to believe the girls.

9. One nurse is on the grounds approximately eight hours per day. A doctor comes to Hudson one half-day per week. After the nurse goes off duty at three or four P.M. daily, medical advice or treatment for girls can only be secured in emergency situations. Until recently, the nurse was not on duty on weekends, but now she leaves earlier on weekdays so that the schedule permit a nurse on duty weekends.

10. A common device for placating girls who have medical complaints regarding stomach or head pains is the use of a "special" or placebos which are sugar pills. No prescription or permission from the nurse is necessary, and quantities of the pills are available in each cottage.

11. An example of the inadequate care at Hudson took place in September, 1974, when the school's ombudsman, while in Cottage "D", observed a known asthmatic child in the midst of an attack, gasping for breath and begging the staff to take her to the hospital. The nurse came in and told the child they did not want to take her to the hospital because it would cost \$35.00 and the nurse did not think the girl was really having an attack. The ombudsman became incensed and demanded that something be done and the child was taken to the hospital. The girl had a subsequent attack the next morning and was taken to the emergency room of the hospital again. When she returned from the hospital, she told me she felt that the staff didn't believe her, that she was just putting on an act and pretending to gasp for breath. She said she would not stay at Hudson any longer and would either hurt herself or someone else to gain her release, or else she would leave immediately in spite of her illness. Immediately thereafter, the school gave her a medical discharge and she was returned to her home.

12. Lack of contact with boys and boredom has resulted in "the racket" and "tatooing." "The racket" is the term used by

the staff and girls to define the prevalent homosexual activity at Hudson. The homosexual behavior is so blatant that some girls act and dress as boys in playing "butch" roles in pursuit of their "femmes." "Tatooing" refers to the girls' practice of gorging deep indentations into parts of their bodies and then filling the indentations with colored ink to form the likeness of a tatoo. Sometimes girls simply scratch up their arms or bodies with pieces of glass, pins, or sharp instruments.

13. Hygiene is also a serious problem. The toilets in Cottage "D" have no seats. Several of the girls have told me they stand up when they urinate. Others line the toilets with paper. Some of the girls are being treated for gonorrhea and urinary and genital infections. The girls do all the cleaning of the bathroom areas. Periodically there are no hand towels in the bathrooms and at other times, I have seen one dirty handtowel in the bathroom.

14. Recreation is minimal and consists in the main of watching T.V. and playing cards. The youngsters rarely are allowed to go outside, even on nice days. Girls in each cottage unit are not allowed to associate with or talk with girls from other cottages. Snacks are considered a privilege and may be denied for disciplinary reasons. Canteen privileges are available twice a week. At the Canteen, the girls may play cards, listen to the juke box, occasionally shoot a game of pool, and buy candy. Girls are constantly extorting cigarettes from each other and arguing

over them. There are absolutely no volunteer groups working with Hudson residents, and apparently there are no efforts being made to recruit volunteers. There hasn't been a general assembly for two years nor has there been an off-campus trip for Hudson youths since Christmas. There has not been a social or dance since most of the boys were moved out in November, 1974.

15. Until February, 1975, the education program consisted of between 45 minutes and an hour and a half of academic school classes, and another 45 minutes of vocational subjects daily, including gym, typing and sewing or cosmetology. This has been changed in February, 1975, probably as a result of charges I made to the State Education Department and the State Board of Social Welfare, but the education program at Hudson is still very inadequate. However, if girls are "taken off program" for disciplinary reasons, they often lose the privilege of attending daily vocational classes. The school does not have any sex education courses. Some of the brighter youngsters at Hudson have complained to me about the low level of classroom work and the lack of stimulating or challenging subjects. Classes are even called off when the Cottage teachers have to assist in other areas of the program. Children go to gym on the average of once a week.

16. At Hudson, the diet is repetitious, starchy, and greasy. To my knowledge, there is no nutritionist presently

working for the Division. Typical meals include sausages, macaroni and cheese, chicken, fish sticks, liver, hot dogs and chuck roast, but the portions of roast meat are very small. Snacks are provided for in the evening, but I don't usually see them. At one point in Cottage "12", one girl, in particular, did almost all the cooking with the assistance of several other girls. She told me she got almost no supervision at all, agreed her cooking was not too good, and she felt very bad when the other girls criticized her cooking.

17. The staff at Hudson is demoralized. They seem to be overworked and undersupervised, and are unable to control the children. During the month of June, 1974, there were over 130 runaways. There are presently numerous "AWOLS." The staff seem to feel that the Central Office of the Division has taken away much of their power to discipline the children. Many of the staff believe they may properly hit the children as long as they characterize it as "just playing." Cottage staff meetings in Cottage "D" occur once every two weeks. They are mostly procedural in nature and last approximately one and a half hours. The superintendent never attends them. There are two cottage supervisors' meetings held each week.

This affidavit is voluntarily submitted for the sole purpose of acquainting the Court with the facts relevant to the

operation of the Hudson School, and to the plaintiffs in the
above action.

/s/ SYLVIA HONIG

SYLVIA HONIG

Sworn to before me this
19th day of February, 1975

/s/ Roderick M. Kerr

RODERICK M. KERR

NEW YORK STATE DIVISION FOR YOUTH
APPROPRIATIONS VERSUS CASH EXPENDITURES
FISCAL YEAR 1973-74

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SUMMARY REPORT
POPULATION VERSUS EXPENDITURES
FISCAL YEAR 1973-74
TRAINING SCHOOLS-STATE FUNDS
ON GROUNDS' EXPENDITURES

Facility	Budgeted Population	Actual Population	Percent of Occupancy	Appropriation	Expenditures	Budgeted Per Capita	Actual Per Capita	Amount Over Budgeted Per Capita	Amount Under Budgeted Per Capita
Highland	160	92.3	58%	\$ 1,761,264	\$ 1,744,630	\$11,008	\$18,902	\$7,894	
Hudson	140	93.4	67	2,044,381	2,063,099	14,602	22,089	7,487	
Industry	240	188.8	79	2,369,012	2,341,603	9,871	12,405	2,532	
Tryon	120	82.7	69	1,047,903	1,023,706	8,733	12,379	3,646	
Warwick	<u>160</u>	<u>144.0</u>	<u>90</u>	<u>2,277,969</u>	<u>2,237,233</u>	<u>14,237</u>	<u>15,536</u>	<u>1,299</u>	
Total	820	601.2	73%	\$ 9,500,529	\$ 9,410,291	\$11,586	\$15,653	\$4,067	
Otisville A]	<u>240</u>	<u>45.3</u>		<u>2,124,836</u>	<u>850,012</u>				
Total Appropriation	1,060	646.5		\$11,625,365	\$10,260,303				

A] Transferred to DACC 7/15/73
Unreliable data for comparison

SUMMARY REPORT
POPULATION VERSUS EXPENDITURES
FISCAL YEAR 1973-74
SPECIAL RESIDENTIAL CENTERS-STATE FUNDS
ON GROUNDS' EXPENDITURES

Facility	Budgeted Population	Actual Population	Percent of Occupancy	Appropriation	Expenditures	Budgeted Per Capita	Actual Per Capita	Amount Over Budgeted Per Capita	Amount Below Budgeted Per Capita
Brookwood	60	32.1	54%	\$ 784,798	\$ 783,985	\$13,080	\$24,423	\$11,343	\$
Coshen	100	60.6	61	1,283,456	1,319,139	12,835	21,768	8,933	
Overbrook	30	21.3	71	432,874	386,165	14,429	18,130	3,701	
So. Kortright	50	47.2	94	541,996	529,567	10,840	11,220	380	
So. Lansing	64	48.6	76	759,182	751,770	11,862	15,469	3,607	
Equipment				14,700	11,744				
Total	304	209.8	69%	\$3,817,006	\$3,782,370	\$12,556	\$18,028	\$ 5,472	



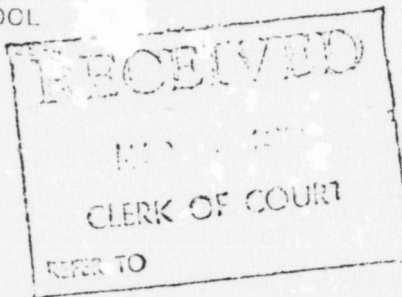
MILTON LUGER
Director

NEW YORK STATE EXECUTIVE DEPARTMENT

DIVISION FOR YOUTH

THE HUDSON SCHOOL

HUDSON, NEW YORK



THOMAS E. TUNNEY
Superintendent
(515) 824-7644

February 26, 1974

Hon. Florence M. Kelley
Administrative Judge
Family Court
135 E. 22nd Street
New York, New York 10010

Re: Angel Miguel George
d.o.b. 9/5/57 - placed by Judge Joseph S. Deutsch, Queens Co., 2/21/74

Dear Judge Kelley:

We received the above named boy this date without having had any prior information regarding his history. Upon review of the material submitted when the boy arrived, we noted that he has a history of head injuries, was placed in a class for mental defectives, and he spent four(4) years in Creedmoor State Hospital where he was diagnosed - psychotic with brain damage. He also had a variety of hospitalizations for mental disturbances.

In his last psychiatric workup from City Hospital Center at Elmhurst, it was indicated that he at that time, November of 1973, was non psychotic and that further stay in a psychiatric facility would not benefit him.

It was also stated, however, that he is a "very dangerous boy" - aggressive, uncontrollable, unpredictable, a fire setter, assaultive, preoccupation with action and ambivalence, cutting people, setting a person on fire with gasoline, etc. It further indicated that because of the head injury there was organicity involved.

Our psychiatrist concurs generally with the above information and we strongly feel, therefore, this facility is not an appropriate placement for he would be unable to receive proper care commensurate with his needs.

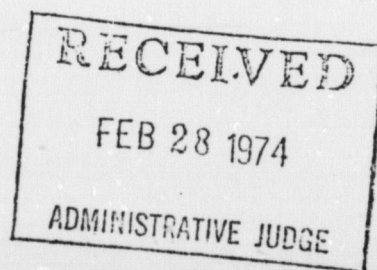
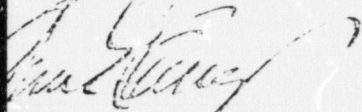


EXHIBIT "B"

Mr. Florence M. Felley
Angel Miguel George
February 26, 1974

view of the above, please notify us when it would be convenient for the court to receive
for further disposition.

Very truly yours,



THOMAS E. TURNNEY
Superintendent

It
Kamel Sukhon, Director of Placement, NYS Division for Youth
Judge Joseph S. Deutsch, Queens Co.
Charles Tarr, NYS Division for Youth

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ADMINISTRATIVE JUDGE



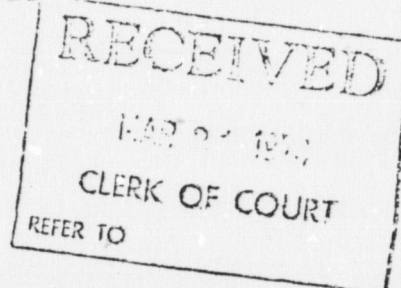
NEW YORK STATE EXECUTIVE DEPARTMENT
DIVISION FOR YOUTH
THE HUDSON SCHOOL
HUDSON, NEW YORK 12534

MILTON LUGER
Director

March 15, 1974

THOMAS E. TUNNEY
Superintendent
(516) 828-1644

Honorable Florence M. Kelley
Administrative Judge
New York State Family Courts
135 East 22nd Street
New York, New York 10010



Re: Angel Miguel George
D.O.B: 9/5/57
Placed by Judge Joseph S. Deutsch, Queens Co., 2/21/74

Dear Judge Kelley:

This letter is to bring you up-to-date on the adjustment and most recent psychiatric and psychological evaluations since Angel's admission to us on the 26th of February.

Upon Angel's arrival at Hudson and our review of the court and social history Angel was assigned to our all boys unit. This cottage is designed to deal with young men whose special needs make it difficult, and in some cases impossible, for them to handle the additional pressures and stresses of a co-ed learning situation. The boys go to school in the cottage, have a work experience, have some courses of interest to them (such as photography and small appliance repair) and are provided with outlets for their enormous energy through gym, roller skating, weight lifting, etc. The major vehicle of treatment is daily group meetings utilizing a modified form of the guided group interaction model. This is supported by individual counseling when necessary. Some of the evening and weekend activities are social in nature and include girls from our all girl units.

Since Angel's admission to the unit he has not been able to function minimally in the program. He directed a great deal of hostility against the more passive, permissive authority figures and attempted to dictate what he was or was not going to do. With the firmer, more aggressive staff he has tried to avoid them when he is with the group. In the one-to-one relationships, however, with the firmer authority figures, he has gained some short-lived rapport. Due to his borderline intellectual capacity and his tremendous emotional immaturity he has not been able to comprehend much from the counseling that the staff has done. It appears that the most he gains is from their total attention being focused on him. Routine chores

given Angel supervised by a warm, very firm staff can be completed only if instructions are clearly spelled out to him and repeated. Even then he was easily distracted by minimal amounts of stimulation. The task also had to be either of a short duration or broken up into segments of short duration. Any rapport with staff disappeared immediately when he had to be corrected or when one of his peer group came on the scene. With those few adults who were inconsistent in their approach to Angel, he seemed confused and would attempt a very hostile, bullying kind of stance whether alone with them or not.

Angel looked to the boys in the cottage who were most aggressive and hostile for guidance, direction and support whenever he was with his peer group. His idols, more sophisticated, gang oriented, and streetwise than Angel himself, quickly picked up Angel's need for approval from them and almost from the beginning of his stay have exploited it by getting him to fight their battles for them. When a staff attempted to correct them, Angel would jump to their defense and resort to threatening to hurt them if they continued. When new boys came into the cottage he would fight them to show them not to mess with the leadership of the clique who were trying to form a gang there. If he found he was able to beat someone he continued to him then when he was not under the supervision of staff. Counseling with him about what he was doing plus the boys' open ridicule and discussion of their exploitation of him were not deterrent to his behavior. He responded for the moment to disciplinary measures taken to separate him from the group but was unable to learn from any of his experiences. Whenever Angel was present with a peer group the group had to be supervised closely so that Angel would not start a fight.

Angel was routinely tested by the school psychologist and found to be reading in the pre-kindergarten level and doing arithmetic at a 1.9 level. His educational needs could only be met on an individual basis as he was overstimulated by the presence of his peers. In addition, his attention span was short and he was easily distracted. He rarely came to class on his own and usually had to be escorted there after much counseling. When in class, he refused to do any reading and demanded to do adding only. He refused any help in the area of reading or in any area of math which he did not already know. The cottage teacher took it upon herself, as her schedule

Florence M. Kelley, Adm. Judge

Page -3

Re: Angel Miguel George

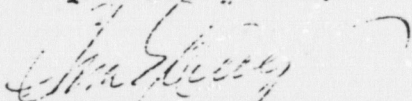
permitted, to offer Angel his schooling in private. Again, he refused to read and demanded to add. When he worked he only worked for a short period of time and would usually leave before the scheduled time.

Angel appeared to enjoy the recreation and social aspects of the program but again he had to be closely supervised due to the difficulty of his behavior with the group.

In group meetings Angel was unable to comprehend what was happening. He would, however, pick up the emotional tone and carry it to almost bizarre lengths if not stopped by staff or one of his peers. Because of the type of boy in this unit, the emotional tone was generally hostility toward authority figures. Thus, Angel would spend most of the group meeting verbally abusing and threatening staff and refusing to cooperate with the program. Some of his behavior seemed directed toward keeping attention focused on him.

In summary, Angel's adjustment to date indicates that his needs are not being met in a group living situation as he requires more individual handling and treatment than the Division for Youth provides. In view of this, may we again urge that Angel be returned to court for more appropriate placement as soon as possible.

Very truly yours,


THOMAS E. TURNLEY
Superintendent

RMS:gem
Atts.

cc: Judge Deutsch

PSYCHIATRIC NOTE

Angel Miguel George - 11

Date: 3-5-74

This 16 1/2 year old boy was in today for the first time - he has been here just about a week now and there is much concern regarding his history and the ability of the institution here to handle this boy and fulfill his apparent needs and controls.

History indicates he has a history of aggressive, assaultive behavior - also included in this is fire setting - uncontrolled activities - and has a history of psychiatric hospitalizations which includes approximately 4 years at Creedmore State Hospital, beginning in March 1967 with a diagnosis of "psychosis with minimal brain damage" - also a brief period at Kings County Hospital and also Queens Children's Hospital in May 1972.

He has had continual trouble in terms of schooling. Mental examination done in September 1973 characterized him as being quite active - moving around in chair continually, guarded, hostile, and negativistic. It was stated he had severe problems with impulse control - short frustration tolerance - confused identity - very primitive ego development - marked feelings of inadequacy. It was felt that his mental grasp and capacity were limited and psychologicals done October 1973 were quoted as showing no evidence of but emotional difficulties. It was stated that "he is a dangerous boy - who is impulsive, aggressive, uncontrollable, unpredictable and suggestible, and engages in anti-social activities". It was noted at that time that he was "not psychotic".

However, during the interview today the boy initially came in in a somewhat aggressive manner and stated "What do you want?" But after a brief introduction, he did answer questions essentially relevantly and without any unusual show of anger or resistance. His answers were very short and direct - there was some mild, excessive movement in the chair - he indicated he did not like it here - gave minimal background information and seemed to be confused by it, stating that he had spent several months at Queens Hospital but only one day at Creedmore and the only reason for going there was because he was having some sort of trouble in school, according to his story. He made no mention of any of the incidents noted in the report.

His plans for the future are most vague - he hopes to work in an auto body repair shop but does not particularly care to go to school. He seems to take for granted that his mother did not want him and simply stated that "That's the way she is". When

Psychiatric Note - cont'd.

Angel Miguel George - 11

Date: 3-5-74

questioned about his age, he said he was 16 but also thought his birthday was November 14, 1957 - he did not know how many months in a year, nor how many days. There was a mild sense of distractibility and one gets the feeling that this boy has to be on the go or moving or doing something almost every minute.

In view of his past experiences and problems, it seems quite inappropriate that his institution could be used for a placement since the general group program here and the attempt to have the children function in a more independent, but at the same time controlled social structure, would seem to be inappropriate for this particular boy for whom the recommendations have always been a closed and very structured type of setting. It is felt that the stimulation of the group and the confrontation that normally goes on in an attempt to gain insight into one's own behavior would be more than this boy could handle and in all probability we would see some acting out, impulsive reactions which has been his pattern in the past.

It seems quite evident that this boy needs not only the closed setting but a much less stimulating and a more individualized program, particularly with more adults so that he can not only be controlled and more organized externally but also possibly feel safer and be less threatened by the stimulation and confrontations of his peers. It is felt that this boy cannot really function on his own as would be expected in this particular type of setting and he really ought to be in a much smaller closely supervised setting - preferably with some type of consistent psychiatric control and involvement which is unavailable to him at this institution.

It is my feeling that this boy basically needs long term, structured setting with the use of appropriate medications and if at all possible, a type of behavior modification program.

The prognosis is guarded.

LEWIS A. JARETT, Psychiatrist

LAJ/be
(t. 3-5-74)
Main File
Field (2)
MPU File
Cottage 11

PSYCHOLOGICAL EVALUATION

Angel Miguel George-11
Date Tested: 3-1-74
DOB: 9-5-57

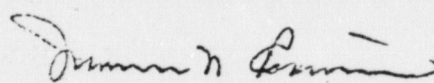
RESULTS:

Angel performs in the borderline range of intelligence which is probably the limit of his capability. Reading and arithmetic achievements are on the level of K-7 and 1.9.

This boy will offer numerous excuses in attempts to dislodge the onus of becoming the target for any criticism or difficulty in functioning and the effective use of his talents for any particular aspect which is expected of him. He also will tend to deny any involvement in any type of activity which may be related to crime or asocial behaviors. He has some interest, particularly in body and fender work, and if some mechanical type of activity can be provided for him while he is here it will no doubt be of some benefit.

This boy does not appear to be a habitual criminal but he does have some related traits which would be conducive toward robbery and certainly the absconding when he is confronted with a difficult type of situation. His capacity for relating in most activities here will be minimal except those which involve some gross muscular kinds of activities.

His intellectual abilities to benefit from any verbal types of encounters are most minimal and should certainly be limited because they will probably have more of a debilitating effect on him than a beneficial aspect. This statement is, of course, limited to the proviso that he cannot benefit from academic remedial work. If he does benefit, then, of course, there may be some changes.



MARVIN N. REISMAN, PhD.

MNR/be
(t. -3-4-74-)

Main File
(Field -2)
Cottage 11
MPU File

EXHIBIT

INQUIRY ORDERED AT GIRLS' CENTER

Legislature's Fiscal Panels
Send Budget Analysts to
Hudson Training School

By LINDA GREENHOUSE

Special to The New York Times

ALBANY, Feb. 13—The fiscal committees of the Legislature heard testimony today charging that the Hudson State Training School for Girls is dangerous and unsanitary, with poor medical care, lax administration, high incidence of homosexual activity and security so poor that many and sometimes most of the residents run away.

As a result of the testimony, the committees scheduled a visit to the school by staff investigators tomorrow.

The testimony was offered by Sylvia Honig, a social worker at the school, during the second day of hearings on Governor Carey's proposed budget conducted by the Assembly Ways and Means Committee and the Senate Finance Committee.

The legislators, who had already heard themselves called "lying" and "deceitful" by private citizens at the hearing and were steeled for more criticism, were taken back by the force of Miss Honig's nine-page statement, which she read quietly and without stopping.

Minutes after she had finished, the two committee chairmen, Senator John J. Marchi, Republican of Staten Island, and Assemblyman Burton G. Hecht, Democrat-Liberal of the Bronx, announced that budget analysts from their staff would inspect the school, about 30 miles from here in Hudson, early tomorrow morning.

Charges Detailed

Miss Honig said residents at the school, most of whom are referred there by Family Court as "persons in need of supervision," were sometimes ridiculed when they are ill, were given placebos instead of medication by staff members, received no psychiatric counseling, and were forced to attend daily group-therapy sessions run by nonprofessionals at which they are punished for not talking.

She said that the top administrators were rarely at the school and that the girls were often abused by the staff. Last fall, she said, boys were placed in the school, but coeducation was ended after the boys rioted and roamed the grounds for days, threatening the staff and destroying property.

Miss Honig told the committees that the state should no longer spend \$20,000 a year per person to keep teen-aged girls confined to a place where they were in "grave danger."

A spokesman for Milton Luger, director of the State Division for Youth, which administers the training schools, said that Miss Honig was a disgruntled employee of Hudson who was recently denied a promotion.

While "a lot of these things did happen," he said, Miss Honig is "indulging in quite a bit of hyperbole." The spokesman said that some of her complaints had resulted in "minor changes" being made, but that the more serious allegations had been referred to the state police, which found no need for further investigation.

During the rest of the budget hearing, the legislators heard representatives of business and manufacturing groups predict that Governor Carey's proposed \$606-million in new taxes would, if enacted, "wreck havoc" on the state's economy and drive "brains and capital" out of New York.

Other Development

In another budget development, Assemblyman Perry B. Duryea, Republican of Montauk, L.I., and minority leader, challenged Governor Carey to a debate on the merits of his budget proposals. Earlier this week, Mr. Carey had said he would "welcome" such a debate.

But the Governor declined Mr. Duryea's challenge on the ground that—in the words of Robert W. Laird, Mr. Carey's press secretary—"it would be inappropriate for the Governor to recognize Assemblyman Duryea as the spokesman for the Republican party in New York State."

"We don't think that would be fair to Dick Rosenbaum, Warren Anderson, Ralph Caso, Jack Javits, Jim Buckley, Malcolm Wilson or Nelson Rockefeller," Mr. Laird said, adding that the Governor had not intended his debate offer to be taken up by legislators, but by "private groups or individuals" who "normally would not have the forum available to legislators."

"The facts speak for themselves," Mr. Duryea replied.

EXHIBIT "D"

Children, a report on the conditions of state juvenile delinquency in N.Y. State to the young in New York State
JULY 1959

STATEMENT BY: MILTON LUGER,
DIRECTOR, NEW YORK STATE
DIVISION FOR YOUTH,
MARCH 5, 1959

I am sure that this knowledgeable group has at its disposal a mountain of statistics, surveys, charts, and notes which relate to delinquent activities on the part of youths in our nation and the numerous and varied efforts of harassed officials to keep up with their antics. And so I think the greatest contribution that I can make is to speak to you candidly about my feelings, beliefs, frustrations, and pride in being a state correctional administrator and what I suppose some naive individuals would term an "expert" in the field of delinquency prevention and treatment.

My entire professional life has been devoted to dealing with troubled and troublesome youth. I am the Director of the New York State Division for Youth—an agency which disburses state fiscal and technical aid to over 1,400 municipalities in order to encourage them to launch innovative local youth programs to combat juvenile delinquency. Our agency operates a network of small community-based residential facilities for delinquent and pre-delinquent adolescents, as well, throughout New York State, in addition to being involved in numerous youth program planning and operational efforts. When I worked for the New York City Department of Correction, I was in charge of its institutional treatment programs and was Director of its Correctional Academy for staff training. I lived in a penitentiary for three years—as an employee. And I am now the president of the National Association of State Juvenile Delinquency Program Administrators. I repeat all this not with any sense of egotism but to indicate to you that my statements are based on long and varied experience, and not simply theoretical concepts. I am certainly not an expert in anything except perhaps in agonizing through the inefficiency of the inadequately equipped machinery we have established to deal with youth offenders. Let me make myself clear, and state some of my basic beliefs briefly:

1. With the exception of a relatively few youths, it probably would be better for all concerned if young delinquents were not detected, apprehended, or institutionalized. Too many of them get worse in prison.

2. If we had limitless funds at our disposal for child care purposes, we still would have a limited success.

3. There is a basic pervasive feeling of uneasiness on the part of institutional managers that their jobs and acceptance depend more upon the lack of embarrassing, sensational headlines than upon their ability to rehabilitate anyone.

4. In the public sector, we generally imprison and institutionalize poverty, while the affluent have more desirable approaches applied to them.

5. There is a growing concern among treatment personnel in the field of delinquency prevention and programming that legislators and the public are ready to support the "get tough" nightstick, suppressive stance at the expense of developing long-range treatment models.

6. There is much naïveté among treatment people that the old medical model of treater-sick client is the necessary principal approach to rehabilitation.

7. Increased militancy among young minority group members might result in improved self images so necessary for a successful adjustment in our society, but it creates tense and stressful institutional situations.

8. New treatment approaches being advocated today, such as community-based programs, have their own shortcomings and handicaps, and should not be viewed as instant panaceas to replace mass congregational custodial approaches.

9. I would stress most of all that there are many, many dedicated, intelligent, persevering institutional administrators and staff who desperately require your fiscal and emotional support as an indication of your understanding their difficult assignments.

The answer to our dilemma of inadequate techniques to deal with the difficult phenomena of anti-social youth does not solely lie in more money and larger appropriations for program people. If we had limitless funds we still would have limited success, because our state of knowledge about human behavior, especially deviant activity, is such that we have little reason for satisfaction or confidence. Where, through hard earned experience, we feel more certain that we can accurately diagnose illness in order to control outcomes, our inability

to implement meaningful treatment approaches, or to control the many influences and variables outside of the delinquency field which affect the outcome and success of our endeavors, seriously circumscribe our impact. Though we desperately need the fiscal resources to gear up what we deem to be practical programs, other ingredients are required as well. Among others, these ingredients consist of courage, support, encouragement, innovativeness and integrity. These might sound idealistic and naive. I would propose that all of your appropriations would be wasted without them.

As institutional program administrators, we have the social failures, the inepts, the misfits, the hostile, the depressed and the ill prepared sent to us for treatment. And too many of us receive confusing signals from the decision makers and policy influencers in our midst. It is almost as if they were saying, "We want dedicated, professionally trained individuals to work with these difficult cases, as long as they are willing to be hired for less money than comparable employment would offer them in other vocations... We want to encourage youths to participate fully in beneficial, therapeutic settings, as long as the physical plant is drab and foreboding enough to remind them that they are to be punished and isolated... We want experimental, innovative approaches utilized, as long as the program is in someone else's backyard... We will back you as long as there are no embarrassing, outward incidents."

Why then should program administrators seek to be creative? Why should they not settle for custody and control instead of treatment? Why then should not the goal of institutions be a trouble-free tour of duty rather than true attitudinal change on the part of young offenders? We all know that anxieties will be generated by introspection rather than mock conformity on the part of the youths is fostered. I am not advocating psychotherapy for all offenders in open hospital settings. Some need physical restraint; others require periods of isolation. What I am lamenting is the true lack of alternatives and diversified treatment approaches because too many program administrators have been fearful of failure. They are depressed because they feel a lack of understanding or interest on the part of most legislators. For example, they are getting accustomed to seeing legislators arrive at their institutions with reporters and TV men in tow rather than with open minds and a sincere concern. They have become resigned to the fact that most dramatic improvements in the field of institutional administration have been initiated after a series of sensational exposés of conditions has led to additional resources.

The Philadelphia Sheriff's van story is the latest example. Money could not be found for years to replace the antiquated, inhuman canteens until youths were re-

ported raped in them. It then took one weekend to find the unavailable money.

Once again I suggest it is not only the lack of money that is the problem. It is the felt indifference that affects program administrators. Youths have been brutalized in spotless, modern quarters. The likelihood of this occurring would be diminished, if we began to separate out the hardened from the novice into differentiated treatment tracks which are not currently available because open, community based facilities require risk-taking by administrators who feel they might not be supported if mistakes are made. The temptation is to settle for quiet, oppressive conformity and control.

In one of our Southern States, a courageous youth agency administrator is experiencing tremendous pressure because he fired an institutional head who advocated corporal punishment for youths who attempt to abscond. Newspapers are demanding the agency head's resignation, because he opposed a policy which, on the surface, seemed to protect the community from these runaway youths. What is truly tragic is that the public closes its eyes to the forces and lack of resources within the institution which made these youths want to flee. Furthermore, the public focuses upon its short-ranged, immediate protection, rather than being concerned about the additional hostility and hatred being engendered within these youths as they are subjected to brutalization to keep them confined.

You can't feed delinquent youths. They are like alley cats, because they have been brutalized by life for so long. They can sense insecurity; they can smell fear; they can spot insincerity.

Most of our child care facilities are somewhat removed from the neighborhoods and locales in which these youths reside and learn about life. And since we cannot offer unusually attractive salaries to recruit many street-wise, sophisticated professionals and other child care staff, we must often staff our institutions with well-intentioned, hard working, but rather easily manipulated and rationalized local people. They might sincerely want to help the sophisticated inner city youth, but they are baffled by his life styles, hostility, and actions.

Too often the adolescents in our care do not see minority group supervisory personnel. Civil service requires college credentials for decent wages, and our schools are lagging in turning out an adequate supply of well-trained minority group leaders. Many of these who do possess college backgrounds are in such demand that they cannot accept assignments in agencies in the city, where the bright lights and urban excitement are available.

I am not implying that minority group youths end up in public institutions solely because of prejudicial

practices. I'm sure there are bigoted judges, but the vast majority are decent, harassed individuals who earnestly seek resources for the delinquents before them. When a seemingly intact, affluent family suddenly rallies around their offspring (probably more to avoid the shame than because of compassion or understanding) and pleads for a chance to keep their youth, get him involved with a private psychiatrist, or send him to a private school, the judge welcomes this concern, and might well overlook the incipient pathology in their home which fostered delinquent behavior.

Who speaks up for the minority group youth to save him from institutionalization? An absent father? An exhausted, overwhelmed mother?

The movement, strongly advocated by the President's Commission on Law Enforcement and Administration of Justice, to establish community-based preventative and treatment resources is laudable. For those youths who have enough stability, strength, and skills to take advantage of local opportunities, community-based programs are obviously indicated. There is a danger in utilizing half-way houses, urban homes, work release programs, etc., in an indiscriminate manner, as if they were the answer to all offender needs. Our own program in the New York State Division for Youth is mainly community-based, utilizing community resources, with no bars or guards; and was established by our agency because a courageous Governor gave us the support and encouragement to move in that direction. Our program has received nationwide praise, but we have made tragic mistakes as well because of our limited knowledge. One of our youths burnt down a neighboring house in which four people perished; another threw stones at a train and blinded a trainman; some have stolen cars; many have performed delinquent acts while in our care. While we certainly have been concerned about adverse publicity and public reactions, these are not the prime reasons to utilize community-based facilities with caution and selectivity. We don't want to have this valuable approach

discredited and discarded by program administrators, because inappropriate cases for these facilities ruin their and the public's confidence in them.

And it is a poor treatment technique which ensures failure on the part of the youth because he is not ready to utilize its potential. Youth institutional care should be moving towards the community to help diversify our treatment tracks and offerings, but it won't go in that direction without administrative courage and integrity fostered by legislative support.

I might have been painting a bleak picture. I did not want to spend our time in a mutual admiration meeting or trying to tell you that we are doing a wonderful job. There are individual programs being administered in the nation which are brilliantly conceived, humanely operated, objectively researched, and beneficial to youths. But there aren't enough. And Congress has a lot to answer for by appropriating funds for a Federal Juvenile Delinquency Bill in 1968 which would have offered localities about \$5 for every youth brought before their juvenile courts, if any of the money had ever been released.

We program administrators have a lot of changes to make. We need to examine closely our procedures to ascertain how much is ritualistic busywork designed to amass impressive-looking treatment case folders, while delinquents languish unseen and unaffected by our programs.

We need to find ways to involve more youths in the decision-making processes of our facilities, instead of continuing to infantilize them, as we regard them as sick cases to be cured solely by our wisdom.

We need to shed the feelings of inadequacy, low status, and trepidation, as we struggle with everyone else's failures.

We need your backing. We need your encouragement. We need your patience. We need your steadfast support. The youths and you need us.

Thank you.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SUPPLEMENTAL AFFIDAVIT
IN SUPPORT OF MOTION
FOR PRELIMINARY IN-
JUNCTION

STATE OF NEW YORK)
 : ss.:
COUNTY OF KINGS)

GENE B. MECHANIC, being duly sworn, deposes and says:

1. I am an attorney duly admitted to practice before this Court and am of Counsel to CHARLES SCHINITSKY, ESQ., The Legal Aid Society, attorney for the Plaintiffs herein. I submit this supplemental affidavit in support of Plaintiffs' motion for a preliminary injunction.

2. The affidavits of Dr. Augustus F. Kinzel, Dr. Gerald Tolchin, and Angel George, all of which are annexed hereto, further demonstrate that Plaintiffs' request for preliminary relief should be granted. Dr. Kinzel, both a psychiatrist and neurologist, says that state training schools do not provide youths with "sufficient emotional and relationship needs" and details the "minimum essentials for normal personality development."

3. Dr. Tolchin, a clinical psychologist states that "[d]ata

accumulated during the last several decades strongly suggests that institutions caring for [non-criminal institutionalized persons including children] do considerably more harm than good for nearly all of those placed in them" Plaintiff Angel George, a PINS who was also found by the Family Court to be a neglected child, expresses the lack of treatment, inhumane punishment and other abuses which he experienced in Tryon and Hudson.

WHEREFORE, based on the above and attached affidavits and all other previously submitted affidavits, exhibits and memoranda of law, plaintiffs' motion for a preliminary injunction should be granted in all respects.

/s/ Gene B. Mechanic

GENE B. MECHANIC

Sworn to before me this
4th day of March, 1975

/s/ Delzorra Presha

DELZORRA PRESHA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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[C A P T I O N]

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AFFIDAVIT

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STATE OF NEW YORK)
 : SS.:
COUNTY OF NEW YORK)

AUGUSTUS F. KINZEL, M.D., being duly sworn, deposes and says:

1. I am an Associate in Psychiatry in the Department of Psychiatry at the College of Physicians and Surgeons, Columbia University, where I have taught since 1968. I presently teach a course entitled "Psychiatry and the Law" in the Division of Community and Social Psychiatry and have also been an instructor at the Columbia Law School. I am certified in psychiatry by the American Board of Psychiatry and Neurology, was Staff Psychiatrist at the U.S. Medical Center for Federal Prisoners, Springfield, Missouri, and am Chairman of the Task Force on the Right to Treatment of the American Association of Psychiatry and Law.

2. I make this affidavit on the basis of studying large numbers of young adults not successfully treated in training schools and reformatories throughout the country, upon research in depth with dangerous individuals, two years' experience in a

child guidance clinic and with an interest in the developing knowledge of dangerousness in children.

3. In my opinion, state institutions for PINS and delinquents tend to fail to foster normal personality development in the youths who are confined in them. First, autonomy development is stifled because premature separation from family makes development of realistic inner images of family more difficult, and little opportunity to interact with family fosters continued dependency and delays growth of responsibility.

4. In fact, the importance of family in youth rehabilitation cannot be overemphasized. A family relationship is necessary to foster normal development, to diminish the forces that are prompting the behavior and to provide emotional supportive tone. Even foster families can provide more of these prerequisites to a rehabilitative program than institutions.

5. Juvenile institutions also tend to prevent social development. Peer values often deteriorate due to absent regular contact with [mature, AFK] adult values. In addition, learning of society's and one's own limits is interfered with by too much emphasis on punishment rather than learning.

6. Sexual development is retarded in these facilities. Sexuality deteriorates into impersonal sex due to absence of adult models of personal tenderness and affection. Moreover, homo-

sexuality may be stimulated due to unrelieved physical proximity with same sex peers. Sexuality cannot develop in the absence of available opposite sex partners.

7. These institutions tend to interfere with intellectual and language development. The facilities are usually anti-intellectual because of the intense emphasis on control of behavior. Concrete thinking is encouraged over abstract thinking. Furthermore, articulateness is discouraged and language deteriorates to "institutionalese". "Do your time" means "do not speak" and you will eventually be released.

8. Vocational development is also hindered because institutions usually impose their own vocational training, if any is provided at all, rather than develop the assets of each individual.

9. Institutions do not provide PINS and delinquents with [sufficient, AFK] emotional and relationship needs. Actual punishment and deprivation in institutions tends to weaken character. Lack of emotional protection and sustained love lead to emotional trauma.

10. Youths must have their behavior understood and not punished. The minimum essentials for normal personality development include some real or substitute family care; some opportunity for heterosexual contact and experience; and some opportu-

nity for individualized psychotherapy [with youth and parents, AFK]
to define and alleviate the fears which prompt the behavior.

/s/ Augustus F. Kinzel
AUGUSTUS F. KINZEL, M.D.

Sworn to before me this
3rd day of March 1975

/s/ Michael J. Dale
MICHAEL J. DALE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AFFIDAVIT

STATE OF CONNECTICUT)
: ss.:
COUNTY OF NEW HAVEN)

GERALD TOLCHIN, being duly sworn, deposes and says:

1. I am an associate professor of psychology at Southern Connecticut State College. I have taught there since 1968.

2. I hold a doctorate in clinical psychology, which I received in 1968, and a Master's degree in humanities and social sciences received in 1961. I have been certified as a psychologist by the State of Connecticut. My clinical internship was at Fairfield State Hospital, Newtown, Connecticut. I am presently a research consultant for the Bureau of Prisons at the Federal Correctional Facility at Danbury, Connecticut.

3. In recent years, the mental health profession and the courts have been re-examining the value of institutional psychiatry: that sticky web of social philosophy, psychiatric theory and medical control which is brought to bear on non-criminal institu-

tionalized persons including children.

4. Data accumulated during the last several decades strongly suggests that institutions caring for these persons do considerably more harm than good for nearly all of those placed in them. See particularly E. Goffman's Asylums - Essays on the social situation of mental patients and other inmates, New York, Doubleday, 1961; D. Vail: Dehumanization and the institutional career, C.C. Thomas, 1966.

5. This would appear to hold true regardless of whether one deals with adults or children, a public or private facility and basically regardless of geographic location.

6. Indeed, the very appearance of symptoms characteristic of mental disorder are more commonly the result of, rather than the cause of institutional placement. This fact has been repeatedly demonstrated. See for example, D.L. Rosenhan, On being sane in insane places, Science, 1973; T.J. Scheff, Being mentally ill, Aldine, 1966. Your deponent also has data suggesting a clear relationship between the time spent as a psychiatric inpatient and the emergence of classical symptomatology.

7. Just why this is so is not yet clearly understood though social-psychological studies have repeatedly isolated a number of variables, the most important of which are:

a. depersonalization: the loss of identity occurring from the sudden removal to an alien environment including geographic isolation, with its separation from familial and kinship ties, loss of rights, loss of privacy, loss of one's usual varied and personal satisfactions and the numerous mortifications which come with patient-inmate status.

b. institutionalization: that process of readjustment to a peculiar communal, bureaucratic, boring, degrading situation, as though it were normal. (See citations in paragraph 4).

c. stigmatization: a change of self-image occurring for the person institutionalized as well as a change of the assessment of that person's behavior by others, each as a consequence of being a patient or a person in placement. See Goffman, Scheff and D.Vail.

8. Each of these variables can and often does cause serious harm or injury to the patient or person in placement.

/s/ Gerald Tolchin
GERALD TOLCHIN, Ph.D.

Sworn before me this
25th day of February, 1975

/s/ Marjorie S. Murray
MARJORIE S. MURRAY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AFFIDAVIT IN SUPPORT OF
MOTION FOR
PRELIMINARY INJUNCTION

STATE OF NEW YORK)
 : SS.:
COUNTY OF QUEENS)

ANGEL GEORGE, being duly sworn, deposes and says:

1. I am a sixteen year old named plaintiff in the above entitled action who was in placement at Hudson State Training School from February 21, 1974 to October 4, 1974. On October 4, 1974, I was transferred in handcuffs to Tryon State Training School, where I remained until I was placed on parole on December 19, 1974. My placement was based on my status as a PINS pursuant to an adjudication in Family Court, Queens County on May 1, 1972. I submit this affidavit in support of plaintiffs' motion for a preliminary injunction.

2. On June 12, 1973, my parents were found to have neglected most of their children, including me (Deutsch, J.). In 1967, my mother brought a PINS petition in Kings County alleging that I kept late hours, was truant, had been picked up by the police for fire-setting and was beyond her control. The petition resulted

in Plaintiff being committed to Queens State Hospital ("Creedmoor") from April 13, 1967, to March 1, 1971. I was placed on parole. However, on August 15, 1972, I was remanded to Juvenile Center, and on August 18, 1972, I was placed, with my mother's permission, in Creedmoor for psychiatric examination.

3. My training school experience made me more depressed and disturbed. While at Hudson, I was confined in isolation for three days, from September 30, 1974 to October 3, 1974. I was locked in a room in "Cottage A" and was given only a mattress to be placed on the floor and two blankets. I was forced to remain in his pajamas during the entire period. I was not given any counseling. Moreover, only a screen covered the window opening, making the room extremely cold on nights during which the temperature reaches near freezing. While in isolation, I received small amounts of cold food for his meals.

4. At Hudson, I did not receive any vocational training. My recreation, for the most part, consisted of playing cards and smoking cigarettes. I only talked with a person who I believe was a psychiatrist once, when I was first admitted. I was extremely bored and frustrated.

5. At Tryon, I was equally bored. I was confined to the lock-up building, which is called "Elmwood Cottage". I only had

school scheduled for 45 minutes a day and sometimes it was cancelled. My supervisors often punished me by forcing me to sit on a hard wooden chair. They also denied my request to make collect telephone calls to my lawyers, Gene Mechanic and Michael Dale. Each boy in Elmwood went on work details one or two mornings per week. We would shovel snow or perhaps build some structures on the grounds.

6. For most of the day, however, I was locked in Elmwood with little to do other than to eat starchy meals, watch television, shoot pool, play cards or smoke cigarettes. I do not believe that I ever saw a psychiatrist. The boys and girls at Tryon went into Johnstown once in a long while, but at the time I left the people in the surrounding community seemed to be afraid of us, so trips into town were not being allowed.

7. My mother did not visit me at Tryon because the trip was too far and costly. Also, Mr. Nurse, my Division for Youth worker did not visit me at Tryon. I am now looking for a job and it is obvious that I learned nothing at Hudson or Tryon which is helping me get one.

WHEREFORE, your deponent respectfully prays that this Court enter an order preliminarily enjoining defendants from returning me to training school and for such other and further relief as to

the Court may seem just, proper and equitable.

/s/ Angel George
ANGEL GEORGE

Sworn to before me this

28th day of February, 1975

/s/ Delzorra Presha
DELZORRA PRESHA



NEW YORK STATE EXECUTIVE DEPARTMENT

DIVISION FOR YOUTH

HIGHLAND SCHOOL FOR CHILDREN

BOX 990

ORLAND, NEW YORK 12528

MILTON LUGER
DIRECTOR

DANIEL P. HALLINAN
SUPERINTENDENT

(914) 891-2631

December 12, 1974

Honorable/W. H. Meyer
Richmond County Family Court
100 Richmonds Terrace
St. George
Staten Island, New York

RE: TARASEWICH, Rosemarie

Dear Judge Meyer:

We understand that when you placed Rosemarie with us on September 23rd, it was your intention to review her case on December 19th to evaluate her placement with this agency and we are submitting the following information to aid you in making your judgement.

Our impressions and observations of Rosemarie are consistent with those of the Euphrasian Residence in that Rose is a bright and articulate girl whose tough and sophisticated veneer attempt to mask an underlying childishness and superficiality. She has exhibited a continuing irresponsibility, non-acceptance of her placement, and limited ability to plan for or work toward a projected goal. She seems to show little ability to learn from experience and continues her impulsive aggressiveness and self-gratifying behavior.

Since placement at Highland, Rosemarie has run away only once, was apprehended shortly and returned to Highland within three hours. Her adjustment since has been only fair. She attempts to manipulate staff to meet her own needs, and in view of her childishness and irresponsibility she is not well accepted by her peers and continues to have problems of social adjustment in her cottage group. Her aggressiveness and "toughness" have been challenged and have led to occasional fights with other youngsters in the cottage.

Despite her intelligence, she does not apply herself well in school to any particular task but needs to be closely supervised and directed for her to function in a positive manner. She seems to be easily influenced and led by others and often finds herself involved in problems without an awareness of how she became involved.

The family has continued contact with Rose since her placement at Highland. The mother has visited twice and they write regularly. However, Rose has not been permitted a home visit primarily by the mother's decision since they have

December 12, 1974

placed a condition on Rose of accepting her home only if she will reveal the name and address of the paramour with whom she was living prior to placement. It is our agency's position that Rose is not prepared for return to the community anyway, in view of her continuing irresponsibility and failure to acknowledge placement as the result of her past behavior and release as a goal which she can achieve through her own efforts. She persists in feeling that her lawyer will get her out of Highland and invests little of herself in achieving that goal.

It is our plan, if placement is continued, to help Rose accept the reality of her placement and to focus on improving her social adjustment, accepting responsibility for her behavior, and developing a sense of responsibility in working for what she wants to obtain her release.

We trust this information will be helpful to you and are available if any further information is desired. We expect Rosemarie's mother to visit and meet with us on December 14th to review this placement and our planning prior to her appearance in court with you on the 19th.

Very truly yours,
Daniel F. Hallinan

by:

Joyce McEachin
Joyce McEachin
Unit Coordinator

LRW:dm

cc: DFY (M-3)
file

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AFFIDAVIT IN OPPOSITION TO
PLAINTIFFS' MOTION FOR A
PRELIMINARY INJUNCTION

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

MARGERY EVANS REIFLER, Being duly sworn, deposes and
says:

1. I am an Assistant Attorney General in the office
of LOUIS J. LEFKOWITZ, Attorney General of the State of New York,
attorney for defendants herein. I submit this affidavit in
opposition to plaintiffs' motion for a preliminary injunction.

2. In support of their motion, plaintiffs McRedmond,
Sosa, Tarasewich, and Bosket have submitted affidavits regarding
their residency at the training schools. Enclosed herewith are
affidavits of the intake worker and cottage supervisor (or the
equivalent) for each child, explaining the intake procedure for
each child and his treatment program at the school, as follows:

McRedmond - Intake: Susie P. Cunningham
Treatment: Ruth Stevenson

Sosa - Intake: Lewis R. Woodham
Treatment: Leonard A. Williams

Tarasewich- Intake: Lewis R. Woodham*
Treatment: Joyce McEachin

Bosket - Intake: Susan E. Behm
Treatment: Ernestine E. Coleman

3. The intake affidavits attest to the careful procedure utilized by the schools when a PINS is placed with them. These procedures include psychological, medical, dental, and if needed, psychiatric testing; interviews; orientation; review of the Family Court material (e.g. prior history, psychiatric reports, diagnostic evaluations, social histories) forwarded to the school; and review of records from other Division for Youth facilities if the child is a transfer or parole violator.

4. The affidavits from the administrator of each child's cottage or unit attest to the broad range of therapeutic, education, and recreational activities which make up each child's treatment program. They also attest that the treatment program is based on part on the Family Court materials described above (§ 3) as well as the school's testing, interviews, etc., and to the periodic progress reports and assessments made at the school.

5. Deponent was able to obtain affidavits regarding Willie Bosket and Patricia McRedmond from the New York City intake workers who evaluated each child's suitability for DFY

* Lewis R. Woodham has submitted one affidavit which covers the intake procedure for plaintiffs Sosa and Tarasewich.

Title II or III placement upon referral from the Family Court. John Martin has submitted an affidavit on Willie Bosket and Martin Silverstein for Patricia McRedmond.

6. Plaintiffs have submitted to this Court an affidavit from Sylvia Honig, Youth Division Counselor at the Hudson School, and a New York Times article regarding her testimony before the New York Legislature. Defendants annex hereto as Exhibit "A" the following articles:

New York Times, February 15, 1975
New York Daily News, February 16, 1975
Hudson Register Star, February 14, 1975
Hudson Register Star, February 17, 1975

7. After Ms. Honig's appearance before the Legislature, DFY issued an invitation for newsmen to join the legislative staff in a visit to the school. The visitors spoke to several of the children as well as the Superintendent of the School, George Dolecal. Their rebuttal to Ms. Honig's observations is reported in the articles of the New York Times, New York Daily News and Hudson Register Star of February 14, 1975. The responses of John Schumann, a teacher at the school, and Martin Gallanter, a child care worker and Chairman of the "Save Our School Committee," are reported in the two Hudson Register Star articles. These two articles quote Mr. Dolecal and Mr. Gallanter as suggesting that Ms. Honig's testimony may have stemmed from her failure to get a promotion at the school, as well as her difficulties as a staff member at the school.

7. Deponent draws to this Court's attention that the statement of Milton Luger, Director of the Division for Youth (annexed to plaintiffs' papers as Exhibit "E"), was made in March, 1969 and is not relevant to or binding in the instant action unless Mr. Luger would testify to the same observations at the present time, six years later.

8. Some of the allegations made in the instant action concern solitary confinement and physical restraint of PINS. The practices of the training school in this regard are presently being challenged in this Court in Rodriguez v. Luger, 75 Civ. 199 (C.B.M.). Plaintiff Willie Bosket is also a plaintiff in that case. The Rodriguez plaintiffs have moved for a preliminary injunction in that case, noticed for March 10, 1975. They have also moved for a class action determination. Accordingly, since the practices of the training schools are presently before this Court in another case which will be heard within one week, defendants have not responded to the charges made herein since the same responses and defenses are being presented in the Rodriguez court. If this Court so requests, deponent will forward to this Court a complete set of the papers filed in Rodriguez.

9. For the reasons set forth in the accompanying memorandum of law, defendants submit that plaintiffs are not entitled to a preliminary injunction.

WHEREFORE, plaintiffs' motion for a preliminary

injunction should be denied on all respects.

/S/ Margery Evans Reifler

MARGERY EVANS REIFLER

Sworn to before me this
4th day of March, 1975

/s/ David Birch

Deputy Assistant Attorney General
of the State of New York

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STATE OF NEW YORK)
: SS.:
COUNTY OF COLUMBIA)

SUSIE P. CUNNINGHAM, being duly sworn, deposes and
says:

1. I am the Assistant Superintendent at the Hudson
School in Hudson, New York. I submit this affidavit in op-
position to plaintiffs' request for a preliminary injunction.
I am personally familiar with the intake procedure utilized at
Hudson School upon plaintiff Patricia McRedmond's arrival here.

2. My educational background is as follows: I have
a Bachelor of Science Degree in New Paltz College and in addition
I have thirty graduate hours in Administration from New Paltz
College.

3. My professional background is as follows: I have
worked for the past twenty-eight and a half years at the Hudson
School. I am permanently certified as an elementary school tea-

cher in New York and have a provisional elementary school principal's certificate. For twenty-one years, until 1967, I was a teacher at the Hudson School. In addition, in the summers of 1960 to 1964 I was the Administrative Assistant to the Recreation Supervisor at Hudson School. In 1967 I was a guidance counselor at the Hudson School for approximately six months. After that, in 1967 I was promoted to position of Education Supervisor and served in that position until 1972. From the spring of 1972 to the fall of 1973 I served as Director of Education. From 1973 to the present I have been the Assistant Superintendent at Hudson. In addition to my twenty-eight and a half years at Hudson, I was also a teacher in the Halifax County Public Schools in Virginia for four years prior to my coming to Hudson.

4. Our intake procedure begins with a telephone call directly from the Division for Youth intake worker referring the child. In the case of plaintiff Patricia McRedmond, I received the intake telephone call from Ms. Ressie Nesbit, the New York City intake worker. She advised that the child was arriving the same day, July 16, 1974.

5. All of the regular cottages at Hudson are open program cottages. Children are assigned to the cottages on the basis of age. Patricia was placed in Cottage 4 on the basis of her age. Patricia was almost sixteen at the time of her arrival at Hudson, and Cottage 4 houses older girls.

Patricia was placed in Cottage 4 immediately upon her arrival at Hudson. An initial interview was conducted there by her Cottage Supervisor, Ruth Stevenson and another staff member.

6. At the time of her arrival, Patricia came with a detailed written court record which included the following: 1) an evaluation done at Euphrasian Residence, a diagnostic study center 2) verification of contact with the rapid intervention program in Kings County Family Court 3) two psychiatric reports from Kings County Hospital and 4) two reports from Catholic Charities. This information was forwarded to Cottage Supervisor Stevenson for aid in planning treatment.

7. On July 16, 1974, as part of our regular intake procedure, Patricia was seen by the nurse. Her eyes were tested. She was given a Pap Smear. She was given various other tests and her medical history was taken. On July 18, 1974 she was given a physical examination by Dr. Irma Waldo. On July 29, 1974 Patricia was examined by the dental hygienist who examined her teeth and gave her X-rays.

/s/ Susie P. Cunningham
SUSIE P. CUNNINGHAM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AFFIDAVIT

STATE OF NEW YORK)
 : SS.:
COUNTY OF COLUMBIA)

RUTH STEVENSON, being duly sworn, deposes and says:

1. I am employed at Hudson School, Hudson, New York as a Division for Youth Rehabilitation Co-ordinator. I submit this affidavit in opposition to plaintiffs' request for a preliminary injunction.

2. In my capacity as a Rehabilitation Co-ordinator I am the Supervisor of Cottage 4 at Hudson. I am directly responsible for the care and treatment of the residents of that cottage, and I am directly responsible as supervisor for all the staff therein. I have known plaintiff Patricia McRedmond since her arrival at Hudson on July 16, 1974. Except for a twelve day period in January 1975 and a Christmas home visit, Patricia has resided continually in Cottage 4.

3. My education background is as follows: I received a

Bachelor of Arts degree from Vassar College in 1964, and I have a Masters of Social Work from the State University of New York at Albany which I received in 1968. I am certified as a social worker by the New York State Department of Education.

4. My professional background is as follows: From 1960 to 1961 I was employed as a group counselor at the Wiltwyck School for Disturbed Boys. In 1961 I came to Hudson, and from 1961 to 1966 I was employed at Hudson as a Youth Parole Worker. From 1968 to 1973 I was promoted to the position of Senior Parole Worker. This was subsequent to my having received my Masters in Social Work. From 1973 to 1974, I was Director of Cottage Service at Hudson and from 1974 to the present I am employed as a Division for Youth Rehabilitation Co-ordinator, a position which is described above.

5. Cottage 4 is a regular open program cottage at Hudson. Cottage 4 is a two story brick building of twenty-three bed capacity, with a kitchen, recreation room, dining room, laundry and bathroom. There are twenty individual rooms and one three bed dorm room with an adjoining private bath. For part of the time that Patricia has resided in Cottage 4, she was in the dorm room. At present she is living in a private room.

6. There are within the cottage twelve adults assigned to child care responsibilities. There are two administrative supervisors (including myself); one full-time certified teacher, and

nine child care workers. In addition, the cottage has a part-time secretary and one half time maintenance man. Except for the secretary and maintenance man, all staff in the cottage are specially trained and experienced in group counselling.

7. During the course of a day a child in Cottage 4 participates in various educational, therapeutic and recreational programs. A copy of Patricia's daily activities sheet is annexed hereto as Exhibit "A". This is her present program through the hour of 4:30 P.M. Her activities from 4:30 - 8:00 P.M. are described below in paragraphs 16 and 17.

8. Upon information and belief Patricia was tested upon her admission to Hudson and had a 10.1 reading level and 7.2 mathematics level. These numbers correspond to grade levels, e.g., 10 refers to the tenth grade. Patricia will be retested prior to her release from Hudson. Patricia is in a non-graded class here and receives individualized instruction based on her needs.

9. The squares marked "school" on the daily activities sheet refer to those subjects taught within Cottage 4, english and mathematics. There are no more than six children in these basic courses. The other subjects listed on the activities sheet are taught in our educational center. There are no more than twelve children in these classes. There are fewer than seven children in her shop classes. Hudson School has a fully equipped educa-

tional resource center in which Patricia can use a wide range of audio visual self-teaching machines and science research equipment.

10. Upon Patricia's arrival here I was given full access to the court materials described in paragraph 6 of the affidavit of Susie Cunningham, Assistant Superintendent at Hudson. These materials are kept by me in Patricia's file at the cottage.

11. In addition to these materials, an admissions study was conducted upon Patricia's arrival at Hudson. The purpose of the admission study is to update the child's history. Upon Patricia's arrival I interviewed her to determine her present needs and to develop long range treatment plans. I met with the staff of my cottage and discussed the long range goals to be developed for Patricia. Cottage staff meetings are held at least every two weeks to discuss the needs of residents. Since August, 1974 the school psychologist has participated in the staff meetings as an advisor and consultant.

12. On August 8, 1974 Patricia received psychological testing at Hudson. The psychologist recommended that emphasis be placed on improvement of her arithmetic and spelling skills and suggested family therapy upon her release to the community. Patricia was seen by the psychiatrist for evaluation on September 3, 1974. Follow-up evaluation by the psychiatrist were held on September 27,

October 11 and November 22, December 10, 1974 and January 24, 1975. Each session lasted approximately one half hour. The psychiatrist recommended that the staff assist Patricia in developing meaningful relationships with adults. Either Patricia or any member of the treatment team can request further sessions with the psychiatrist or psychologist.

13. In addition to cottage staff meetings, Cottage Councils are conducted by myself and a staff member with Patricia. The first council was held on August 31, 1974. A Cottage Council for Patricia has been held once a month since that time. The purpose of the council is to allow the child to speak to the council about her progress and to allow the council to inform the child of its evaluation of her progress. Included are reports by every person involved in her treatment program. A full report is written after the meeting, placed in her record, and sent to her aftercare worker. The council recommended, inter alia, that Patricia learn to know and accept the fact that she is at Hudson. Throughout her stay at Hudson Patricia has been convinced that she would be released by the courts, and initially she made little investment into her program.

14. Cottage 4 is divided into guided group interactive and behavior modification units. The child's activities and programs are essentially the same in each unit but there is a difference in

therapy techniques. Patricia was in the guided group interaction unit from her arrival here until January 9, 1975. As a member of this unit she met with her group five times each week for an hour and a half session. There are approximately ten children in each group plus myself and staff member. The goal of the group is to help the child achieve wide skills in dealing with others in the community and to teach the children to develop alternate ways of meeting and dealing with problems. In Patricia's case she reacted to her problems with extreme anger and dealt with her problems either by exploding or secluding herself. Our goal in the group was to help and enable Patricia to make decisions concerning herself without becoming angry.

15. Our long range goal was to help Patricia to deal with her anger and explore and deal with her perception of others as always trying to control her. The Cottage Council advised Patricia that she must learn to accept no. We saw Patricia as a child who greatly needs to improve her self image. She showed an arrogant stubbornness as a defense mechanism, and it is our goal to help her deal with that difficulty.

16. For reasons which are explained below (¶¶22 and 23) Patricia was transferred to Cottage E, our secure cottage, on January 9, 1975. She returned to Cottage 4 after nine days there. Upon her return she was placed in the behavior modification unit.

and she is presently in that unit. In this program each child receives points for positive behavior. In the unit we clearly spell out the expectations we have for each resident, and it is up to them to make choices. There is a great emphasis placed on individual counselling. In addition, there is a group meeting five days a week from 4:30 - 6:00 P.M. The participants in these sessions are myself, a staff member, and the children in the behavior modification unit. The group leaders in this unit, as well as the guided group interaction unit, are all specially trained in group counselling.

17. Dinner is from 6:00 - 6:30. From 6:30 - 7:30 there are work assignments and clean-ups in the cottage. From 7:30 - 8:30 the children are at canteen or gym. The central canteen is an area for general social activities. There the children can listen to music, play cards, shop for personal items, dance, play pool, etc. A staff member for the cottage is always present and participates in these activities with the children. At 8:30 the children return to the cottage recreation room. Patricia's bedtime is 9:00. Between 8:30 and 9:00 she is free to read, watch television, write letters, knit, etc. A staff member is present during this time and participates in the activities.

18. During the weekends, children in the cottage are allowed to sleep late and have more free time than on week days. Canteen

for the whole school is held Saturday afternoon. On Sundays children are allowed to attend religious services. A movie is held every Sunday night. Other special events are held on occasion. Most visits to the school are on Sundays.

19. Since Patricia's arrival at Hudson on July 16, 1974 she has received ten visits from her family. Patricia's off-campus trips have included bowling, swimming at the local high school, a Christmas party in Wappingers Falls, sponsored by the womens group at a church there. Boys from Berkshire Boys School visited our cottage around Christmas time. Upon information and belief, Patricia also visited Olana. Patricia earned incentive trips allowing her to go to the City of Hudson with other girls from the cottage, unsupervised, on Saturdays. She made two of these trips in October, 1974. However, upon discovering that Patricia had been drinking in town, the privilege was withdrawn. Patricia had an incentive visit to her home during Christmas, from December 22-27, 1975.

20. In her affidavit of February 7, 1975 Patricia makes numerous allegations which are incorrect or contain insufficient information. I would like to correct some of these inaccuracies. As previously stated, Patricia has met the psychiatrist more than three times (¶12). Patricia was placed on anti-depressive medication from September, 1974 through January, 1975. Upon information

and belief, when the psychiatrist prescribed the medication he explained its purpose to Patricia. On January 10, 1975, upon the request of Patricia and her mother, this medication was discontinued. She has not received any medication since that date until last week when she received medication for a physical ailment.

21. Patricia refers to an incident of January 27, 1975 when she allegedly was assaulted by a staff member and refused medical treatment. Patricia refused to attend classes on that day. When she returned to the cottage, she was sent to her room. When she left against orders, the staff member tried to restrain her. The alleged assault produced minor abrasions. The staff member prepared and filed a full incident report. Patricia would not let anyone look at her alleged injuries until the following day when she was given first aid here in the cottage.

22. Patricia experienced various difficulties upon her return to Hudson after her Christmas home visit, at which time she had had numerous arguments with her mother. On January 9, 1975 she ran away to the City of Hudson. She was discovered there in a phone booth by a school staff member, talking to her mother. The staff member spoke to her mother and then brought Patricia back to the school. Patricia did say that she intended to come back to the school in any event. Upon her return we found a knife and scissors

in her possession, which I believe were intended as weapons.

23. As a result of the run away and her behavior upon her return, Patricia was transferred to our secure cottage for nine days. She was placed there so that she could receive more individualized attention and so we could supply greater security. In the secure cottage Patricia participated in group meetings, counselling, and a reduced schedule of school classes. Individual counseling was available from the staff there as well as the staff from Patricia's regular cottage.

24. I have read the affidavit of Sylvia Honig, sworn to February 19, 1975, submitted in support of plaintiffs' request for a preliminary injunction. I have been Cottage 4 Supervisor since July, 1974. To the best of my knowledge, Sylvia Honig has never visited Cottage 4 but was here only once to pick up a record, nor has she ever spoken to me or any of my staff members.

RUTH STEVENSON

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AFFIDAVIT

STATE OF NEW YORK)
 : SS.:
COUNTY OF ULSTER)

LEWIS R. WOODHAM, being duly sworn, deposes and says:

1. I am employed by the New York State Division for Youth as a Supervising Youth Division Counselor at Highland School for Children, Highland, New York. I submit this affidavit in opposition to plaintiffs' request for a preliminary injunction.

2. My academic background is as follows: I have a Bachelor's degree in psychology from Haverford College; I did graduate work at Boston University School of Social Work and the University of Buffalo School of Social Work. I received the degree of MSW from Buffalo in 1961. I have taken and completed the New York State Public Administration Trainee Program.

3. I have been employed at Highland since June of 1961 and have progressed from Youth Parole Worker to Senior Youth Parole Worker to Supervising Youth Parole Worker, retitled to Supervising

Youth Division Counselor. I have served in my present title since July 1, 1971.

4. My duties since 1962 have included responsibility for the intake procedure at Highland. After receiving notice of the child's pending admission, I make arrangements for receiving the child, inspect the placement order and any accompanying social history or background material, and accept the child as a legal placement for admission to Highland. I am personally familiar with the intake procedure for plaintiffs Rose Marie Tarasewich and Robert Sosa,

5. The following is a description of the intake procedure for a Person In Need of Supervision who is placed at Highland. After a child has been accepted as a legal placement, I conduct a clinical interview with the child to assess the youngster's understanding of the placement, including goals. I deal with the youngster's apprehensions about the placement and separation from home. Thirdly, I deal with the child's comprehension of the program resources available to him or her at Highland and inform him or her of general rules and regulations. I also collect specific information from the youngster about family constellation, relationships, and extra-familial interested parties. I also check specifics such as home address, telephone, medical problems, religious identity, last school and grade attended, and birthdate. This in-

interview takes place immediately upon the child's arrival at Highland and may last from 1/2 hour to two hours.

6. The orientation to Highland's program and procedures begins and is incorporated into the initial interview and is not handled as a separate procedure or placement. Our philosophy has been that the child begins to establish relationships and make associations from the moment of arrival, and that orientation is not a separate phase.

7. The medical intake program is initiated as part of the process I handle for intake and orientation of the child. All children are given a preliminary screening by the nurse prior to assignment to a cottage, and may be held in the infirmary whenever the medical situation warrants. The child is given an initial examination by the school physician within three days after admission. The nurse schedules all children for routine medical screening including a blood test, chest X-rays and routine immunizations where not previously completed before admission. Girls are routinely given a GC smear. There is also routine screening for vision and hearing. Each youngster is referred by the nurse to the dentist for routine examination and treatment as necessary, including orthodontics, when required.

8. Every child is given a brief oral or written reading test at admission by the school psychologist to determine his or her

achievement level for class assignment. Additional testing for I.Q. determination, organicity, or personality disturbance may be performed by the psychologist, though this is usually done by referral, rather than routinely.

9. Each child with a prior record of hospitalization and/or psychiatric medication or who is seen at the point of admission as being a seriously distraught and disturbed youngster is automatically referred to the psychiatrist and seen within a week after admission. Further psychiatric referrals are based upon a youngsters functioning in the institutional program. Such referrals are usually made by the cottage coordinator.

10. I, as the Intake Worker, make the determination of cottage assignment based on my judgment of the youngster's level of functioning, drawn from the interview situation, observation of the child, and first hand experience with the child during the intake and orientation process. My judgment often includes background and clinical information about the child, when this is provided at admission.

11. There are two cottages for girls at Highland, and they provide essentially the same programs. Assignments are based on the level of social and emotional functioning, within the limitation of available bed space in any cottage unit.

12. Attached as Exhibit "A" are two pages from the manual of

procedures used at the school which describe our admission procedures.

13. The decision to place Rose Marie Tarasewich in Fox Cottage was based on the above mentioned factors, as well as her court materials, which included a report from a psychiatrist, a diagnostic report from the Euphrasian Residence, a social worker's social history, and the results of a physical examination.

14. Robert Sosa arrived at Highland on June 5, 1974. Robert did not come to Highland as a new admission but as a parole violator, for temporary detention until his parole revocation hearing was held and a decision rendered. Since he was not a new admission he was not subject to the usual intake process.

15. Since Robert was only a temporary detainee he was placed on "guest" status in Deer Cottage on June 7, 1974. Deer Cottage was one of the four cottages for males. Robert was placed in Deer Cottage because he knew other residents of that cottage and asked to be assigned there.

16. Within two weeks it became apparent that Robert would be remaining with us for awhile. We therefore requested and received his complete file from Overbrook Center, the DFY Title II facility in which he was previously placed. These files included, but were not limited to, psychological and psychiatric evaluations, a com-

munity social history, a social worker's institutional case evaluation, and social worker reports on his progress and adjustment at Overbrook.

17. Robert's parole was revoked and he became a permanent resident at Highland on July 2, 1974. Robert had told us that he wished to remain at Highland and continue to live in Deer Cottage. In light of his adjustment at Deer Cottage, we continued his placement there.

18. Deer Cottage was closed on January 31, 1975. Robert and three or four of the other boys from Deer Cottage were transferred to Gopher Cottage.

LEWIS R. WOODHAM

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AFFIDAVIT

STATE OF NEW YORK)
: ss.:
COUNTY OF ULSTER)

LEONARD A. WILLIAMS, being duly sworn, deposes and
says:

1. I am employed by the New York State Division for
Youth at Highland School in Highland, New York, as a Unit
Coordinator.

2. In my capacity as Unit Coordinator I was in
charge of Deer Cottage during plaintiff Robert Sosa's stay there
from June 6, 1974 through January 31, 1975 when Deer Cottage
was closed. As Unit Coordinator of Deer Cottage I was in charge
of both the children and staff of the cottage. I was responsible
for treatment and daily activities of the children as well as
educational, medical, psychological, and recreational services.

3. My professional and academic qualifications are as follows: Bachelor of Science in physical education and hygiene, 1957, Cortland State Teachers College; Master's Degree in Educational Administration, 1965, New York University Provisional Secondary Principal's Certificate issued by the State of New York; twenty-seven hours work toward Instructional Administrator's Certificate (kindergarten through eighth grade) under a sixty hour program given at the State University of New York at New Paltz.

4. Deer Cottage was one of four all male cottages at Highland. It had the capacity to house twenty-five children. From June, 1974 through January, 1975 the number of boys in the cottage fluctuated between fourteen and twenty-five. Included in the cottage was a dormitory for the boys, a lounge area, dining room, a recreation room, and other facilities.

5. My staff of Deer Cottage consisted of myself, an assistant unit leader, and seven child care workers. In addition, as explained below (17), two full-time certified teachers were members of my staff during part of Robert's stay there.

6. Robert's program at Highland includes a broad range of therapeutic, education, and recreational activities. All references hereinafter made refer to Robert's stay in Deer Cottage until January 31, 1975.

7. Robert initially functioned at a second grade level upon his arrival here and is now up to a third grade level. Our school classes here at Highland are ungraded. Until September 2, 1974 all classes were held in our central school building.

As of September 3, all morning academic classes (e.g. english and mathematics) were taught here in the cottage by my two teachers. Afternoon classes in special areas (e.g. reading, arts and crafts) were taught in a separate building in the afternoon. Cottage classes were discontinued in February, 1975, and the children again are taking all classes in our central school building.

8. After classes ended in the afternoon Robert would return to the cottage for recreation or participate in other recreational activities such as swimming or gymnasium. After dinner (6-9 P.M.) recreation included on-campus activities such as quiet games (cards, checkers, monopoly) swimming, softball, roller skating, television, reading, ping pong, basketball, listening to records. Off campus Robert was involved in interagency competition in softball and basketball. Interagency competition is a league we have been involved in over many years and includes community based recreation programs with the YMCA, Community Workers Association of Newburgh, and various centers in Poughkeepsie operated under the Neighborhood Services Organization. In addition, the children are allowed to attend community sporting events as spectators. Upon information and belief, Robert attended Little and Junior League games in Highland once a week throughout the summer; men's softball league in Highland and New Paltz about once every two weeks in the summer; and a college

basketball game at the State University in New Paltz this fall.

9. The recreation program during non-school hours and on non-school days is organized by our recreation department. All activities are scheduled daily for each cottage. Recreation during school hours consists of physical education classes and various intramural activities to coincide with the sports seasons. Robert participated vigorously in these school times recreational activities. To the best of my knowledge, Robert used all of our recreational facilities and opportunities to the maximum.

10. At 9:00 P.M. at night the boys are showered and prepared for bed, given snacks, and allowed to participate in quiet games, watch television, write letters, etc. until lights out at 10:30. On weekends and holiday eves the children are allowed to stay up as late as 12:30 A.M.

11. The boys in the cottage are assigned to work assignments in the cottage. The cleaning details in the cottage (sweeping, washing dishes, etc.) are assigned for two weeks each and then rotated.

12. On Saturday mornings the children participate in general cottage maintenance. The rest of the day is devoted to recreational activities and receiving visitors. The children are offered religious services early Saturday evening.

13. Part of Robert's treatment program here includes individual and group counseling. I have access to any Family

Court materials forwarded to us. Robert came to Highland as a parole violator. His previous placement was at DFY Title II facility, Overbrook Center in Red Hook, New York. I have full access to the Overbrook files on Robert, described in the affidavit of Lewis Woodham, his intake worker, at ¶16. These materials helped us plan Robert's treatment program here at Highland.

14. While in Deer Cottage, Robert participated in guided group interaction therapy sessions held five days each week. For the first three months of his stay, the sessions were an hour and a half daily; thereafter they were held for an hour daily. I conducted these sessions.

15. These group counseling sessions attempt to utilize the dynamics and strength of the group to alter and develop pro-social behavior of its members. Robert was present from the very first group counseling session. The sessions were initiated by each child telling his own story. This story was supposed to consist of everything that had been trouble for him throughout his entire life. Robert the first one in his group to volunteer to tell his story. The procedure that followed was for other members of the group to help Robert identify his problems and to subsequently work on solving them. Robert was a very active participant in group session; he was perfectly willing to discuss and reveal all things that were on his mind.

difficulty identifying with adult staff. During his assignment in Deer Cottage, he developed to a point where he would establish a closeness to adult staff who showed him sincere concern.

19. The individual treatment plan was for Robert to improve his academic skills, especially in the area of reading; improve in peer group relationships and relationships with adults in authority; and improve in social skills. His peer group relationships were improved by daily group living, interaction in classroom situation and in group counseling sessions. His relationships with adults in authority were improved by interaction with child care staff, teachers, group session leader and all supplemental institution personnel. His social skills were improved by the interaction he received with peers and staff and contacts he made off campus in the community. Those off campus contacts were the recreational contacts previously described and home visits.

20. Robert had three home visits during his placement in Deer Cottage: August 19 -- September 3, 1974; November 6-13, 1974; December 23, 1974 -- January 3, 1975. Upon information and belief, he had his fourth home visit last week. Robert's after-care worker has submitted reports on Robert's home situation and home visits.

21. I would estimate that Robert had approximately one community visit per week. These included participation in the

16. From time to time Robert became stubborn withdrawn and on occasion very explosive when upset. Depending on the situation and what staff were immediately available would determine who would individually counsel the boy. Individual counseling was done in the course of normal daily supervision. Individual counseling was conducted by sitting down with Robert, isolated from the rest of the group, for about 15 or 20 minute periods.

17. Robert had the opportunity to request individual counseling from myself, Mr. Gaffney (cottage unit leader), Mr. Openheim (assistant superintendent of the facility), Mr. Woodham (director of clinical services), and Mr. Hallinan (superintendent). He exercised this opportunity with Mr. Gaffney and myself approximately half a dozen times a week for periods ranging from 15 minutes to one-half hour. I know of one specific occasion when he asked to speak to Mr. Oppenheim and did so and one specific occasion when he spoke with Mr. Hallinan.

18. The overall assessment of his progress in treatment from June 6, 1974, to January 31, 1975, is good. Robert's ability to accept and follow directions in the classroom and the cottage has improved tremendously during his stay at Highland. His teacher indicates that Robert can now successfully complete a given assignment whereas upon admission he was unable to do so. Robert's relationships with peers has been on a steady incline upward since the day of his admission. On admission, Robert had

interagency athletic program; spectator visits to local sporting events; coeducational activities at Lincoln Community Center in Poughkeepsie (games, dancing, and refreshment); and supervised visits into Highland and New Paltz for shopping, movies, etc.

22. Robert has been visited here by his mother and sister.

23. In his affidavit of February 10, 1975, submitted in support of the motion for a preliminary injunction, Robert makes a number of allegations which are incorrect or insufficient to explain the situation. I would like to correct some of these.

24. Robert makes numerous allegations regarding his reading ability and reading classes. Robert attends remedial reading classes at Highland. During his stay here his reading improved from a 1.8 grade level to approximately third grade level. At least while he was in Deer Cottage, reading classes were held five times each week and Robert's attendance record was good. Robert works very hard at improving his reading skill.

25. While it is true that arguments may occur during our group counselling sessions, there are no fights during these sessions and there is always a staff member present. These classes are scheduled and usually held five days each week. Only occasionally is a meeting cancelled and certainly not twice each week.

26. After the January 20, 1975 fight to which Robert

refers, he was seen and treated by a nurse. She did not believe that emergency medical treatment was necessary. Robert was taken to St. Francis Hospital for X-rays on the following day. The X-rays were negative. Robert did not suffer a dislocation of his shoulder but had a bruise and contusion.

/s/ Leonard A. Williams
LEONARD A. WILLIAMS

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AFFIDAVIT

STATE OF NEW YORK)
: ss.:
COUNTY OF DUTCHESS)

JOYCE M. McEACHIN, being duly sworn, deposes and
says:

1. I am employed by the New York State Division for Youth as a Counselor at Highland School for Children, Highland, New York. From October, 1974 through February, 1975 I was Acting Cottage Coordinator in Fox Cottage. I submit this affidavit in opposition to plaintiffs' motion for a preliminary injunction.
2. I am a licensed practical nurse and did my training at the Poughkeepsie School of Practical Nursing. I did staff nursing and private duty nursing for two years at St. Francis Hospital in Poughkeepsie before I was employed by the State. I have completed courses in Human Behavior and Sociology at Dutchess

Community College in Poughkeepsie and am presently studying psychology at that school. I have attended a human relations workshop sponsored by the Division.

3. I have been employed by DFY since 1967. I began work at Highland as an Assistant Child Care Worker. In 1968 I was promoted to the position of Child Care Worker, then to Youth Counselor in March, 1974. I began work at Fox Cottage when it opened in March, 1974 and became Acting Cottage Coordinator in October, 1974.

4. During my service as Youth Counselor and Acting Cottage Coordinator in Fox Cottage I was in complete charge of the staff and children there. I was personally familiar and responsible for the emotional, physical, and mental needs of plaintiff Rose Marie Tarasewich at Fox Cottage from the time of her admission. I have full access to the materials sent here by the Family Court, described in the affidavit of Lewis Woodham at ¶13, and they were considered in setting Rose's Treatment goals.

5. Fox Cottage is one of two cottages for girls at Highland. During the period of September, 1974 through the present the average number of girls living in the cottage was approximately sixteen. I had a staff of 7 child care workers and 1 certified full-time teacher at Fox Cottage.

6. Rose's treatment program at Highland consists of a broad range of educational, therapeutic, and recreational

activities. In the morning Rosemary attends classes at Highlans's School. These include reading and mathematics labs, gym, art, crocheting and knitting. In the afternoon she has classes here in the cottage which include arithmetic, spelling, and history. Rose is at a 8.0 grade level in math, 6.9 level in reading, and 7.8 level in spelling. She is in the highest levels in the cottage in math and reading. The cottage is divided into two classes according to ability and no class has more than ten students. Each class is then broken down into two groups, taught by a teacher or teacher's aide. After next week there will be three class levels in the cottage. The reading and math labs are specially equipped and taught by specialists in these subjects. Each child progresses at her own pace.

7. In my opinion Rose has adjusted very well in school. She can verbalize her problems and seek help when necessary. To the best of my recollection she had difficulties in school before coming here. She has learned to use reference materials and to complete assignments. She also has learned good study habits.

8. Group interaction sessions are held each weekday from 2:00 - 3:30 p.m. here in the cottage (see ¶14). From 3:30 - 4:30 the girls have free time and participate in recreational activities at the cottage. Rose has also been involved in tap dancing with a New York City groups called the Actors' Youth Fund.

9. 4:30 - 6:00 is dinner hour and cleanup. 6:00 - 7:00 there is a quiet hour for homework. A recreational program is conducted from 7:00 - 9:30. One evening a week an art course is taught by students from the State University at New Paltz; on another night a movie is shown in the cottage. On a third night the girls are taken off campus to New Paltz for shopping; they usually stop for a pizza before their return to school. On another night there is a social with a boys' cottage. One night a beautician works with the girls on their hair and make-up. Occasional evenings are spent off campus in Poughkeepsie or New Paltz for a movie or at buffet suppers and socials with boys from other institutions, such as Mother Cabrini. The girls shower and prepare for bed at 9:30, lights out is at 10:00

10. The girls are allowed to sleep late on weekends. On Saturdays recreational activities like roller or ice skating are held in the morning. From 1:00 - 2:30 p.m. the girls go bowling in New Paltz. Recreational activities are then held until 3:00. A relaxed program follows for reading, television, visits from boys, etc. Dinner is at 4:30. At 5:30 Rose attends Mass. She then returns to the cottage. Evening activities sometimes include a movie in New Paltz or Poughkeepsie.

11. On Sundays the program includes elective sports activities with a boys' cottage, visits from the boys, and an evening movie with a boys' cottage at the school auditorium.

The girls are allowed visits from family or friends at any time but most visits are on weekends. Rose's mother has visited her on three weekdays. Rose's mother does not have a telephone so Rose calls her sister every week.

12. There is always the opportunity for individual counseling in the cottage. Rose has come to me on many occasions for discussion of her problems. At one time, I was called in from home to help her. Also, any of my aides are also available for counseling. Sometimes the discussions from individual counseling are carried over into the guided group interaction program. This is a form of group counseling.

14. Through the guided group interaction program (GGI) Rose has learned to take responsibility for the problems that brought her to Highland. With the help of the group, she has gained an insight into her own problems. Rose's mother attended a GGI meeting, and, with the help of the group, the communication problem between Rose and her mother was broken down. After this happened, Rose was able to have a successful ten day home visit at Christmas time. Right now she is on a six-day home visit, which started February 18, 1975.

15. In my opinion, the GGI helped Rose get to the heart of her problems. I believe it helps the girls help each other

and thereby help themselves. The girls have GGI five days a week for an hour and a half. Rose meets with approximately ten other girls and myself or a staff member. The Division For Youth staff acts as a guide, not as a participant. I meet with my staff at least twice each week to discuss the girls' progress. I prepare a progress report on each girl every three months. The last report on Rose was made in December. A copy went to Family Court and to her aftercare worker, and one copy went into her file. I do not have a copy before me, but to the best of my recollection the report consisted of her adjustment into the program and our plan for her future adjustment, and working toward her release. We stressed that her development was progressing, that she was beginning to learn how to get along with her peers, and that she was learning that manipulation of staff and peers was not acceptable and that the way toward release was to accept responsibility for her problems.

16. Rose and the other girls in the cottage help set the direction of their own treatment plan under what we call the contract system. A girl, in consultation with the cottage staff, states her problems and tells what she will do to overcome them. She put her plans in the form of a written agreement for a two month period, which is kept in the cottage. The girl is said to be on Level I. At the end of one month, the girl and staff see

if the agreement is being kept. After a review at the end of the second month, the girl who has been successful in living up to her own plan for her improvement, draws a new contract for additional improvement and is admitted to what is called Level II, which carries additional privileges. There is also a Level III, which is reached after an additional contract period of a minimum of two months. Rose is presently at Level II. I believe she will go to Level III when she returns from her present home visit. This last level works the girls into an independent living plan, whereby we hope to get them responsible for themselves, getting up, getting to breakfast and school, and so forth, but with continuing staff supervision.

17. I do not believe that Rose is ready for release at the present time because she is still working to overcome her problems of feeling superior to peers, in accepting direction from staff, and trying to manipulate peers and staff. However, I do believe she is making progress in overcoming all of these problems. At present, she is building a good relationship with her home and mother and father.

18. The aftercare worker assigned to Rose, Mr. Von Schockman, has met Rose's mother and has made home visits. In December, Mr. Von Schockman and Mrs. Tarasewich met at Highland and planned Rose's Christmas visit home. He met Rose on her arri-

val home in New York and was involved during the whole ten day period with the family. He is also working with the family on the present visit. He met Rose at the bus yesterday and took her home to Staten Island. He will also visit the home periodically during her home stay. Upon her release, he will work with the whole family in Rose's adjustment into the community.

19. In her affidavit of February 4, 1975 Rose incorrectly states that the problems which led to her placement here are not discussed at our group meetings. In fact these problems have often been discussed. Although Rose states that she is afraid to speak out I have seen no indication of this. Although Rose may have been initially reticent, she is now an active participant in our group meetings and has a positive attitude toward them. No privileges are taken away from the girls are punishment for their refusal to speak at meetings.

JOYCE M. McEACHIN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AFFIDAVIT

STATE OF NEW YORK)
 : SS.:
COUNTY OF COLUMBIA)

SUSAN E. BEHM, being duly sworn, deposes and says:

1 I am the Assistant Director of Brookwood Center for Children in Claverack, New York. I submit this affidavit in opposition to plaintiffs' request for a preliminary injunction.

2. My educational background is as follows: I received an Associate in Arts from Marymount College in 1966 and a Bachelor of Arts from Florida Atlantic University in 1968. I am a candidate for the Degree of Master of Education at Florida Atlantic University (Guidance and Counseling).

3. My professional background is as follows: Before coming to the Division For Youth in October, 1974, I was with the Division Of Youth Services in Florida as Superintendent of a half-way house (10/71 to 4/74). I have been in my present position at Brookwood since December, 1974. Previously I was the Assistant Director of Start # 5, Staten Island, New York, a DFY facility for girls.

4. Most of the children at Brookwood are transfers from other PINS training schools. Plaintiff Willie Bosket was transferred here from Highland School on September 20, 1974.

5. Brookwood is a single, self-contained building, shaped like an "H", with four wings. Willie was assigned to Wing I because it was the only wing for boys at Brookwood.

6. Upon information and belief, upon examining Willie's files, the intake was as follows: On Willie's arrival here he was examined by a nurse. He was tested by a psychologist on September 24, 1974 and was interviewed by the psychiatrist on October 2. He was examined by the school physician on September 23, and by a dentist on October 17.

7. We received from Highland Willie's files which include the material which the Family Court sent to the school and Highland's own file, including a transfer summary which is a complete report prepared by Highland on the reasons for the transfer; psychiatric reports; diagnostic evaluations; and aftercare worker reports.

SUSAN E. BEHM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STATE OF NEW YORK)
 : SS.:
COUNTY OF COLUMBIA)

ERNESTINE E. COLEMAN, being duly sworn, deposes and says:

1. I am Assistant Unit Administrator of Wing I at Brookwood Center and was the Unit Administrator there from plaintiff Willie Bosket's arrival here until early January, 1975. I submit this affidavit in opposition to plaintiffs' motion for a preliminary injunction.

2. I have attended Cortland Thompkins Community College and Dutchess Community College, and I am presently attending Columbia-Green Community College. I have taken a civil service administrative supervision course; have attended child care workshops; was co-leader of a workshop for the Association of Child Care Workers; and have participated in numerous DFY training sessions.

3. I was at Brookwood Center from 1964-1968, at South Lansing School from 1968-1970, and have been back at Brookwood since 1970.

4. As Unit Administrator of Wing I, I was in charge of the staff there and directly responsible for the care and treatment of the residents. I supervised a staff of six child care workers.

5. Brookwood Center is a single building shaped like an "H" with four wings. Wing I is the only boys' wing and housed an average of thirteen boys during Willie's placement here. Each of the boys has his own room in the wing. There is a lounge area within Wing I as well as various recreational areas within the building.

6. Willie's program here at Brookwood consists of various educational, therapeutic, and recreational activities. I have full access to Willie's files from Highland and the Family Court materials sent to us, described in the affidavit of Susan Behm at ¶7, and these are considered in determining Willie's treatment needs.

7. Willie attends a certified school here at Brookwood. Willie's classes are ungraded and co-educational, and there are an average of eight pupils per class. Willie currently reads at a 5.4 grade level. From 8:30 - 11:30 a.m. Willie takes academic classes at the school (math, science, english, and social studies). Three times each week from 1:15 - 2:00 p.m. Willie has gymnasium. On the other two days he has shop from 12:30 - 3:00.

8. From 3:30 - 4:30 each weekday there is guided group interaction therapy. Dinner is held at 5:00 and then there is a quiet

hour for phone calls, reading, record-playing, etc. On Wednesdays every other week there is swimming at Hudson High School. On the other week nights, between 6:00 and 8:00 p.m. there are art classes, socials with the girls, and other co-educational recreational activities (checkers, gym, ping-pong, bicycle riding, television). At 8:00 the boys return to their wing and have an hour of free time for quiet games, television, letter writing, etc. Bedtime is at 9:00.

9. Saturdays are devoted to gym and recreational activities. Occasional off-campus trips are made into the local area, such as for sporting events, movies, and shopping in Hudson. On Veteran's Day we attended a parade in Albany. We also went to a party at my brother's house in Schenectady, held for the boys, my brother's children, and some children from the community there. More off-campus trips are allowed during warmer weather. On Sundays the children may attend religious services.

10. Willie has seen the psychiatrist here on three occasions. He has seen the psychologist on thirteen occasions. Willie has access to these doctors on request, as well as upon the staff's recommendation.

11. Guided group interaction sessions are held five times each week for an hour each. For part of Willie's stay the boys

were broken down into two groups; at the other times all the boys met together. I am the leader of the group. Through these sessions each child discusses his troubles at home as well as at the school. The group helps each member identify his problems and work out solutions for them. Individual counseling is available at all times from myself and my staff. Because Willie has showed great unwillingness to accept his placement here and tends to act out, I think it fair to say that he has received individual counseling daily.

12. Our long-range goals for Willie include efforts to help him control his anger, deal with authority, and accept criticism. I believe that Willie started to show progress here until December, when there was a regression. In the last few weeks there has been some improvement.

13. I met with my staff on a formal basis approximately once a month to discuss the children's progress and needs. In December, 1974 a five month progress report was prepared on Willie. The school, myself, the nurse, and others contributed reports. A meeting was then held with the school director to discuss these. Willie was then invited into the meeting to discuss his progress. The report was placed in Willie's file and sent to his aftercare worker.

14. Willie speaks to his mother and grandmother by telephone

on a frequent basis. His mother writes to him and send packages frequently.

15. Willie had a Christmas home visit from December 20, 1974 - January 2, 1975. Willie's aftercare worker is helping Willie's family to prepare for his return home. Brookwood is phasing out its boys' wing and the other boys in the wing left the school on Tuesday and Wednesday of last week. Upon information and belief, the Center has been in contact with Willie's family and lawyers, and we are making efforts to plan for his discharge in the community.

ERNESTINE E. COLEMAN

N.Y. Times
Feb. 15, 1975

Self-Inflicted Wounds

Yet she also said that "at home I never carved my arm up," displaying scars on her thin brown arm from wounds she said she had inflicted with a piece of broken glass. Many of the girls had such scars on their arms.

Cindy also said that she was a lesbian and that one of the staff members, upon discovering that, ridiculed her and called her "terrible names." Cindy felt so humiliated that she ran away from the school—as many residents do, because there are no locked gates.

There are now 81 residents—all of them judged by Family Court to be "persons in need of supervision"—and 17 who are absent without leave.

George Dolecal, the acting superintendent, said he was not aware of any homosexuality at the school, although both residents and staff members said it was widespread.

Officials of the Division for Youth have taken the position that Miss Honig was exaggerating the problems at the school out of resentment over being passed over for promotion. Miss Honig had criticized what she said was the lack of psychiatric care at the school.

TWO VIEWS GIVEN OF HUDSON SCHOOL

Some Girls Defend Facility
—Social Worker Is Critical

By LINDA GREENHOUSE

Special to The New York Times

HUDSON, N. Y., Feb. 14—

Two analysts from the State Legislature's fiscal committees heard conflicting testimony today about the Hudson State Training School for Girls, which was described at a legislative hearing yesterday as a "deplorable" place that subjected its residents to "shabby, neglectful and often abusive treatment."

On the one hand, Sylvia Honig, a social worker at the facility, insisted today that "a lot of injustices" exist at the school and that the young women who are sent there by the Family Court are driven by conditions there to run away in "massive" numbers.

Miss Honig made the initial charges yesterday at a budget hearing in Albany. The chairman of the Assembly Ways and Means Committee and the Senate Finance Committee ordered an immediate investigation by Susan Swift and Fred Anderson, the two budget analysts with responsibility for the Division for Youth, which administers the state's five training schools.

One Girl's Attitude

On the other hand, several of the adolescent girls themselves told their visitors that they were not abused, that their stay was helping them to overcome personal problems and that, in fact, life at the school was more tolerable in some respects than life at home.

Cindy, an articulate 15-year-old from Syracuse (administrators asked that the residents' last names not be used) said that at home her mother regularly beat her and did not want her back. After 10 months at Hudson, Cindy said, she feels better about herself and now understands that her mother beat her "because she couldn't express herself any other way."

Cindy's attitude toward the school and her confinement there seems to typify the contradictory nature of such a facility. For example, she said she enjoyed a photograph course she was taking there, had learned to develop and print her own pictures and now wanted to become a news photographer. She said that the dormitory she was now living in—a "secure cottage" housing only six girls who are sent there for a few weeks at a time for breaking rules—was the best home she had ever known.

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FEB 16 1975

Hudson School Girls Deny Being Abused

By GENE SPAGNOLI

Staff Correspondent of The News

Hudson, N.Y., Feb. 15 — Residents of the Hudson Training School for Girls yesterday denied charges of "deplorable conditions" and "shabby, neglectful and often abusive treatment" made by a social worker before state legislative fiscal committees.

Sen. John Marchi (R-S.I.) and Assemblyman Burton Hecht (D-Bronx) directed staffers Fred Anderson and Susan Swift to investigate conditions after Sylvia Honig had made the charges during a budget hearing on Thursday.

She said there were many run-aways, depressing surroundings and a lack of recreation and medical facilities.

19 Residents AWOL

School Superintendent George Dolecal said bluntly: "Our girls have problems. We have to take anyone assigned here from family courts. But Sylvia has a problem, too. When she was not promoted two years ago, she told me she would do all she could to discredit the administration."

Newsmen and the legislative staffers visited two of the five cottages that house the 89 residents—19 are AWOL—all of whom are between 12 and 17. Four of the cottages have minimum security and at one the doors are always locked.

Six girls were in the security cottage, most of them because they had run away from the school. All said that they had never been beaten and none of them knew of any girl who had been abused by staffers.

Misses the Boys

One who had run away two weeks ago had turned herself in to authorities in Albany a week later and she explained: "I was living with my boy friend, but things didn't go right so I decided to come back here."

Two girls at a minimum security cottage said they had been there for about a month and each said she found the staff easy to get along with. One girl said she didn't like the school because there were no boys.

The school has 15 teachers, all of whom have been there at least seven years, and the girls go to school six hours a day.

Dolecal said their ability in

reading ranges from about the second grade to college level so that regardless of the subject being taught, the major emphasis is on reading ability. Good facilities are available for arts and crafts, typing, photography and hairdressing.

Ombudswoman Available

There is a big gymnasium used every day and open two nights a week. The girls are permitted to go to a canteen on two nights a week.

The rooms and hallways, by institutional standards, are brightly painted and cheerful.

There is an ombudswoman who comes to the school one day a week and is available to any of the girls. Two girls said the ombudswoman was helping them in some court action they were undertaking.

Full-Time Psychologist

Reports from the ombudswoman go to Dolecal and to Milton Luger, director of the Division for Youth, which runs Hudson and four other schools.

There is a psychiatrist who spends one day a week at the school and a full-time psychologist. There is a nurse and two part-time nurses and a doctor who visits once a week and is on call.

Staffers Anderson and Swift made no comment on the four-hour visit but will file their reports with Marchi and Hecht.

CHARGES ARE DENIED

Training School Den Of Abuse Ex-Worker Says

By CHRIS MARTIN
HUDSON - Charges by a social worker employed at the New York State Training School for Girls here that the school was a poorly administered "den of abuse," were denied by school and state officials today as two legislative research analysts began an investigation prompted by the criticisms.

The school superintendent, George Dolecal, expressed concern that the adverse publicity resulting from the charges by Sylvia Honig to two legislative committees Thursday night hasten the school's phase-out.

And the Civil Service Employees' Association representative at the school termed Miss Honig's allegations "prejudicial, half truths, distorted viewpoint" ... a "direct attack on members of our union." They, too, demanded an investigation.

The current investigation is the third in recent months, Dolecal said. The similar charges last May resulted in an

investigation by two attorneys, and the State Board of Social Welfare recently completed a two-week investigation on which a report has not yet been made.

Dolecal said the social worker's charges stemmed from her anger about not being promoted last year.

Makes Changes

Miss Honig appeared during the second day of hearings on Gov. Carey's proposed budget conducted by the Assembly Ways and Means Committee, and the Senate Finance Committee. She charged that the training school was dangerous and unsanitary with poor medical care, lax administration, a high incidence of homosexual activity, and poor security.

The two committee chairmen, Sen. John J. Marchi, and Assemblyman Burton C. Hecht, promised minutes after she finished her testimony that an inspection of the school would be made today.

They dispatched Susan Swift,

Please Turn To Page A-2

Hudson Register Star
Feb. 14, 1975

Training School

subject analyst for the Assembly Ways and Means staff, and Fred Adams, budget analyst for the Senate Finance Committee. They met this morning with Willis White, program administrator for the division for Youth, and Donald Murray, the division's director of communication. Dolecal and assistant superintendent Mrs. Susie Cunningham. Several reporters were present.

Miss Honig claimed she had two years of documented incidents to support her allegations.

She said the girls lived in "small dingy rooms that are poorly ventilated, badly in need of paint and generally depressing; that the toilets in some of the cottages have no seats and many girls have urinary and genital infections, and that some were being treated for venereal disease."

Dolecal said while the rooms were not large, and that some might need painting, "each room had a window, and some had two, which the girls may open."

Not Unusual

In some cases, he said, the toilets don't have seats because they were constructed that way for sanitary reasons. Their use, he said, was not unusual in institutions and hospitals, and they were designed to prevent infection.

Miss Honig said the girls do not receive proper or enough clothes "from the state, and that many reject state clothes, preferring to go without necessary items rather than wear the state clothes."

Dolecal labeled the charge "untrue," and said each girl received an allocation from the state, and parents also provide clothing. In most cases, he said, the girls have what is considered more than sufficient clothing. The state allocation is used to purchase clothes locally in keeping with current styles.

He said most girls who first enter the institution don't believe they can be helped, and that it was not until mid-way in their stay, after a period of adjustment, that they begin to admit they can be helped. The average stay at the school is 10 months.

Concerning the social worker's charges that many of the girls are emotionally disturbed, and do not receive psychiatric therapy, Dolecal said every child assigned to the school has an emotional problem. If after testing they are classified as emotionally disturbed or psychotic, they do not stay at Hudson, but are transferred "to a more appropriate setting."

She also said the girls during long, daily group meetings were "subjected to hostile confrontations and ridicule from both their peers and the staff," and that "a great many staff at Hudson, including the superintendent, have used vile, obscene language to the girls, cursing, belittling, and threatening them."

Key to Treatment

The group counseling is the key to the institution's treatment program, and is conducted by staff members aided by unit coordinators or assistant coordinators, who also sometimes lead the sessions. The hour and a half session is held six days a week, and helps the girls learn more about one another, and how to get along with other people.

Miss Honig also said there was a large amount of homosexual behavior among the girls and that a severe runaway problem resulted from boredom, with prostitution and suicide attempts following.

She said "The social worker reported food was substandard in quality, quantity and preparation, at times, there was 'barely enough meat to go around,' and that fresh fruit and vegetables rarely were on the table."

Dolecal said homosexual behavior was "not condoned, encouraged, permitted, or tolerated," but that the school was "capable and able" to deal with problems of homosexuality. He said the school never had clearly been able to come

to the conclusion that homosexual acts have taken place. But, he said, the school does have "subculture," girls living together and forming "families" — mothers, fathers, sisters, brothers.

Dolecal said the food was above minimum standards, but described the quality as "not gourmet." The food supplies are governed by the Division for Youth and the diet is monitored by a dietitian from the State Board of Social Welfare, he said. The girls cook under the staff supervision.

Miss Honig said medical care was "extremely inadequate" and that large amounts of medication are dispensed daily in a careless way that presents a grave danger to residents.

Medical care practices, Dolecal said, were constantly changing and unreliable, creating the health of the

children. Trained and skilled nurses are on duty seven days a week. The school is ready access to Columbia Memorial Hospital; has two doctors assigned to the school, one an M.D., the other a psychiatrist, and also refers children to doctors in the community.

"Get Proper Care"

"Children receive appropriate and proper care and get what is needed," he said.

Miss Honig said most of the girls at Hudson "deteriorate while they are in the school, many of them adopting foul language, destroying property, mutilating their bodies, running away and 'repeatedly stating that they are not being helped at Hudson.'" The foul language, Dolecal said, was not learned at the school; it was brought in by the residents.

"There is no more or less here than anywhere else," he said. Foul language by the staff is not tolerated, and a reason for disciplinary action.

Girls with problems sometimes destroy property, and there have been instances where they have injured themselves, he said.

stitution had problems. "After all," he said, "we're dealing with problem children, but far from being ashamed of what we do here, we're proud of our school and welcome scrutiny from any authorized agency."

A recent Legislative Research report on the school, requested by Assemblyman Clarence D. Lane, complimented the school's program.

The level of the subculture, he said, is directly proportionate to the level of the safety the children feel. If they feel unsafe, the subculture thrives. He said the subculture was "fluctuating, and not a gross problem."

"The biggest problem we have here" he said, "is keeping them (the girls) out of school when they're sick." The girls, he explained like to "hang in with the group."

He said boredom was no more a problem at the school than it was anywhere else, and that the runaway rate had declined measurably.

Some girls admit to sexual behavior when they runaway from the institution, he said, but he knew of no prostitution.

She also said that boys housed at Hudson during an experiment in "institutionalized coeducation resulted in a boys' riot in which they roamed the grounds for days, threatening the staff and destroying property."

Roam Campus

Dolecal said boys as well as the girls had "roamed the campus" sporadically between July and September in groups ranging from two or three to 30. During that time, he said, they "did what they damn well pleased."

Most of the problem was caused by inadequate staffing, he said. The Hudson staff is predominantly women.

The addition of boys in the program, he said, had adverse effects on the staff. Since the boys' transfer, he said, the staff was "not as drawn, tired or fatigued."

During the height of the problems with the boys, he said, additional staff was called in from other state facilities. Local police agencies also were called in.

The state budget analysts at Hudson today said they would begin writing their reports this afternoon.

Martin Gallanter, chairman of the "Save Our School Committee," which has been trying to get the state to reverse its decision to close the school in April, 1976, said that every in-

Training School Group Calls Criticism A Stab In The Back

HUDSON - Martin Gallanter, child worker and chairman of the "Save our School Committee," termed the accusations of Miss Silvia Honig, "a stab in the back and very resentful, to the New York State Training School for Girls" and its employees.

Miss Honig told two legislative committees last week the facility was dangerous, and unsanitary with poor medical care, lax administration and a high incidence of homosexual activity. She said security was so poor that many and sometimes most of the residents run away.

Gallanter said Miss Honig came to the Hudson School from Wyantskill where she apparently caused trouble at the training school there, too. He

said "this time she went just a little too far" he added that she was unsuccessful in one cottage on the training school grounds and was in direct conflict with many employees and staff at the school. He said, "she has worked in three different cottages this year and failed in two."

Gallanter said "she has failed to use any of the union's mechanisms. She was asked to list for four months her grievances and never came up with it. Yet, she criticizes others without ever trying to improve or take action on her own, in regard to her grievances."

Gallanter and John Schumann, a teacher at the school, said about Miss Honig's accusations:

They said the girl's rooms are

anywhere from bright to cheery to whatever way they want them decorated to suit their taste.

Some of the room need painting and some have just been painted, he said.

With regards to venereal disease, Gallanter said, "girls are tested when they come to the school and treated. When they go home on a visit, he said, they are given another test on their return to the school and these tests are given repeatedly. The toilets at the school are porcelain and are constructed for use in institutions and are designed in such a way as to prevent infection."

He said a New York State Investigator recently pointed out there were more than enough clothes for each girl.

According to the state "\$17,500 is allocated to maintain a girl here at the school, Gallanter said, and \$1,500 for each girl for food and clothing."

As far as the food being "sub-standard," as claimed by Miss Honig, it is "high quality," Gallanter said. "It's nothing for a girl to gain 15 to 20 pounds while here. It happens often."

He added that the medical care and attention given to the girls was not inadequate. If needed he said, the girls are taken to see specialists in Pittsfield or Albany.

As far as boredom, he said, "they are doing their best." The girls have a pool, a canteen with a free juke box, roller skating and gym activities.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ARTICULATE

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

JOHN MARTIN, being duly sworn, states the following is true
under the penalties of perjury:

1. I graduated Fordham College in 1953 with a Bachelor in
Science. I received a Masters in Psychology from Columbia Univer-
sity in 1954.

2. I have been employed by the New York State Division for
Youth for the past 9 years and am currently a Senior Youth Division
Counselor since 1968. My present job description consists of
placement supervision, a function I have carried out for the past
6 years. The position consists of reviewing and evaluating cases
of potential placements sent to me by judges and the probation
department of the Manhattan Family Court.

3. With regard to Willie Bosket, he was referred to me by
Probation Office Bamberger of the Manhattan Family Court on April
9, 1974 for consideration for entry into our Title II, Division

for Youth facilities. Upon referral, I reviewed the case materials on Willie, materials which consisted of probation investigation, and psychiatric and psychological studies. These reports were replete with the showing of severe disorders in behavior and personality including assaultiveness, fire setting, and impulsivity. Only one conclusion could be drawn and that was that this youngster was not a suitable candidate for the Division for Youth's Title II programs, which are open and minimally supervised in nature. I thus recommended that he be placed in a closely supervised psychiatric setting, but that should placement nevertheless be ordered by the Family Court judge to our agency under Title III, we would refer him to our Brookwood Center. This youngster at the time of placement, would have been under our organizational set up sent to either of two Title III programs, Highland or Brookwood. Of the two, Brookwood was the more closely supervised, highly structured setting and I, therefore, concluded that Brookwood was the more suitable facility. This choice of Brookwood was also made as it was designated to accept males, and also due to the youngster's age, which was 13 at the time. Given his age and sex, the choice would have to be between Highland and Brookwood, as other PINS facilities had different admission requirements.

4. At the dispositional hearing, the Family Court judge then

placed the youngster with the Division for Youth, Title I pro-
gram for 18 months.

/s/ JOHN D. MARTIN, JR.
JOHN D. MARTIN, JR.

Sworn to before me this

20th day of February, 1975

/s/ Dolores A. Jones
DOLORES A. JONES

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4. At the dispositional hearing, the Family Court judge then

placed the youngster with the Division for Youth, Title III program for 18 months.

/s/ John D. Martin, Jr.
JOHN D. MARTIN, JR.

Sworn to before me this
20th day of February, 1975

/s/ Dolores A. Jones
DOLORES A. JONES

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AFFADAVIT

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

MARTIN SILVERSTEIN, being duly sworn, states the following is true under the penalties of perjury:

1. I graduated City College of New York receiving a Bachelor of Arts in 1955 and graduated from New York University in 1972 with a Masters in Social Work.

2 I have been employed by the New York State Department of Social Services and the New York State Division for Youth since 1967. My current position, held since 1973, is that of placement supervisor, a function consisting of reviewing and evaluating cases of potential placements sent to me by judges and the probation department of the Brooklyn Family Court.

3. With regard to Patricia McRedmond, I received a referral from Probation Office Diane Streator, from the Brooklyn Family Court on May 15, 1974. The referral was for the purpose of considering her for one of our Title II programs. She was interviewed

on June 6 and June 25 of 1974 and in addition, I studied and reviewed the case materials supplied by the probation department. This youngster was found not suitable for Title II consideration. This conclusion was based on her rejection of program participation in Title II and what I felt was her lack of motivation to accept any program help that could be offered. She clearly indicated that she would not go and given the open setting and voluntary nature of Title II programs, I felt she was not a suitable candidate.

/s/ Martin Silverstein
MARTIN SILVERSTEIN

Sworn to before me this
20th day of February, 1975

/s/ Dolores A. Jones
DOLORES A. JONES

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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REPLY AFFIDAVIT
IN SUPPORT OF
PRELIMINARY INJUNCTION

STATE OF NEW YORK)
 : ss.:
COUNTY OF KINGS)

GENE B. MECHANIC, being duly sworn, deposes and says:

1. I am an attorney duly admitted to practice before this Court and am of counsel to Charles Schinitzky, Esq., The Legal Aid Society, attorney for the Plaintiffs herein. I submit this reply affidavit in support of Plaintiff's motion for a preliminary injunction.

2. The attached affidavit of Dr. Augustus F. Kinzel further establishes that Plaintiffs are entitled to preliminary relief. Dr. Kinzel has found that Plaintiffs Sosa and Tarasewich are being harmed as a result of their training school placements.

3. Defendants have claimed in their opposing memorandum (pp. 11, 18 and 27) that Brookwood is arranging for neurological testing and psychiatric placement for Willie Bosket. Such contention is misleading. Rather, Brookwood has been continuing his placement, despite its admission that Willie should not be

there, until your deponent can find a suitable alternative. In other words, your deponent has been forced to perform Defendants' job. Despite many attempts, neither your deponent nor Willie's mother, Laura Bosket, who, upon information and belief, wants Willie home, has been able to reach Mr. Cruz, Willie's D.F.Y. aftercare worker.

4. In fact, contrary to Defendants' allegations, Plaintiffs' parents are not adequately counselled by D.F.Y. aftercare workers. Upon information and belief, Loretta Tarasewich, Rose Marie's mother, has only seen her daughter's aftercare worker when Rose Marie has been on a home visit. Likewise, upon information and belief, the other Plaintiffs' parents, whose own problems are so often the major reason for their children's PINS status, rarely receive counseling from Defendants.

WHEREFORE, based on the above and all other and previously submitted affidavits, exhibits, and memoranda of law, Plaintiffs' motion for a preliminary injunction should be granted in all respects.

/s/ Gene B. Mechanic
GENE B. MECHANIC

Sworn to before me this
12th day of March, 1975

/s/ Delzorra Presha
DELZORRA PRESHA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AFFIDAVIT

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

AUGUSTUS F. KINZEL, M.D., being duly sworn, deposes and says:

1. At the request of their mothers and their attorneys, Charles Schinitzky, Esq., The Legal Aid Society, Gene B. Mechanic and Michael J. Dale, of counsel, on March 9, 1975, I examined plaintiffs Robert Sosa and Rose Marie Tarasewich at Highland State Training School, Highland, New York. A brief summary of my professional background may be found in my earlier affidavit of March 3, 1975, herein.

2. On the basis of my psychiatric examination and observations, the record of these children and the prior affidavits in this case, I have concluded that neither youngster has been treated at this training school and that continued placement is damaging to them and may make subsequent treatment more difficult.

3. It is my professional opinion that Plaintiff Robert Sosa manifests an adjustment reaction of adolescence. He appears to be

reacting to a disturbed family environment. He has a chronic sense of instability, a morbid fear of harm and irrational and imagined fears. As a result he responds by flying off the handle, getting into fights in school and striking out. Moreover, he is illiterate, and there is the possibility of some chronic brain impairment.

4. Adequate treatment for Robert includes individual psychotherapy focusing upon why he erupts and helping him to gain insight as to why he acts out. If his fear is diminished, he will be able to function adequately. Robert needs a full educational evaluation, specialized education and perhaps vocational training which does not entail extensive reading and writing. In addition, he needs a protective family environment which he might get in his sister's home if his mother is not able to manage him.

5. Highland State Training School is inherently unable to provide Robert with the protective family environment he needs. He feels threatened by others at the school just as he did when he was on the street. The school offers a veneer of protection but in fact does not protect him. He gets into fights and shows scars from recent ones including teeth marks about the nose. With regard to education, Robert's frustration has been intensified at Highland because he has been placed in a class where he cannot

succeed. He spends from four to five hours per day in school and yet he can neither read nor write. In effect, he is being educationally neglected.

6. Robert's behavior appears to be no different than when he first entered the training school system. He shows no insight as to why he flies off the handle. He doesn't see his problem as involving imagined and irrational fears. For the length of time he has been at training schools--approximately two years---he should have gained some awareness. His problem is not so deep-seated as to be impossible to treat. However, he has received no therapy and has not been treated. If he is not treated he will continue to develop a life style around his problem.

7. It is my professional opinion that Plaintiff Rose Marie Tarasewich manifests a cyclothymic personality which is a personality disorder in which there are mood vacillations. Rose Marie may go on to manic-depressive illness. She is provoked by her mother, has a romanticized vision of her stepfather, has a tendency to submit under pressure to the will of others and is immature. In addition, she has been in a hypomanic state where she stayed awake for long periods with a feeling like there was a fire engine racing within her. She also hallucinates. However, Rose Marie is not acutely mentally ill at present.

8. Adequate treatment for Rose Marie includes sending the child home and having a psychiatrist work with her mother regularly. Rose Marie may be seen occasionally by the psychiatrist to assist her to mature and may be helped by a school counselor. Some medication may be helpful with regard to calming down her mood.

9. The Highland State Training School is inherently unable to do anything about this mother-child relationship. The so-called group therapy which is supposed to show what is wrong with the child turns into a pressurizing experience for Rose Marie. Part of her personality disorder is a tendency to submit under pressure. She feels she has to submit to the group. The result is that when pressured by other groups in the future, she may have even more of a tendency to submit against her conscience.

10. In my opinion Highland tends to fail to foster normal personality development in the ways described in my earlier affidavit. For example, sexual development deteriorates because normal intermixing is not accepted. There is significant homosexual activity at the school. (Also language deteriorates to "institutionalese".) Deviant behavior is in turn institutionalized itself, which legitimitizes it. There is a self-fulfilling prophecy resulting from everyone's assumption that the children are immoral. Familial contact is missing. Even for those children who for some reason cannot live at home, foster of group

homes near their families should be employed.

/s/ Augustus F. Kinzel

AUGUSTUS F. KINZEL

Sworn to before me this
12th day of March, 1975

/s/ Michael J. Dale

MICHAEL J. DALE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

PATRICIA MCRREDMOND, et al., by	:	
their attorney and next friend	:	
CHARLES SCHINITSKY, on behalf of	:	74 Civ. 4943
themselves and all others	:	
similarly situated,	:	<u>OPINION</u>
 Plaintiffs,	:	
 -against-	:	
 MALCOLM WILSON, individually and as	:	
Governor of the State of New York,	:	
et al.,	:	
 Defendants.	:	

-----X

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GAGLIARDI, D. J.

This is a civil rights class action brought pursuant to 42 U.S.C. §1983 and 28 U.S.C. §1343(3) and (4). The seven named plaintiffs are members of a class of persons who have been adjudicated Persons In Need of Supervision ("PINS") by the Family Courts of the State of New York and placed into one of the four New York State Training Schools for PINS. Defendants, who are each sued individually and in their official capacity, are the Governor of the State of New York; four officials of the New York State Division for Youth, which operates the training schools; the superintendents of the four training schools; and seven Family Court judges, both individually and as representatives of all other Family Court Judges in the State of New York. In general, plaintiffs by this action challenge the constitutionality and legality under New York State law, of defendants' action of placing plaintiffs in the four New York State training schools for PINS.

More specifically, plaintiffs have asserted eight claims in their complaint: (1) that the placement of PINS in training schools geographically distant from their families, friends and communities constitutes cruel and unusual punishment in violation of plaintiffs' rights under the eighth amendment; (2) that the placement of PINS in training schools violates plaintiffs' first amendment rights to freedom of

travel and association; (3) that the deprivation of liberty suffered by plaintiffs solely by virtue of their status as PINS can be justified under the due process clause of the fourteenth amendment and under other federal and New York State constitutional provisions only if plaintiffs receive adequate and appropriate treatment, which the training schools do not and are unable to provide; (4) that the deprivation of liberty suffered by PINS without their having received the full panoply of due process rights required in criminal proceedings can be justified under the due process clause of the fourteenth amendment and under other federal and state constitutional provisions only if plaintiffs receive adequate and appropriate treatment, which the training schools do not and are unable to provide; (5) that the placement of PINS in training schools which fail to provide adequate and appropriate treatment constitutes cruel and unusual punishment in violation of plaintiffs' rights under the eighth amendment; (6) that the placement of PINS in training schools violates their right to receive the least restrictive treatment alternative pursuant to the due process clause of the fourteenth amendment and other federal and state constitutional provisions; (7) that the placement of PINS in state training schools denies them equal protection of the law because "neglected children" are not placed in training schools; (8) that the failure to provide adequate and appropriate training, care and rehabilitation to plaintiffs violates New York

Executive Law §§ 501, 510 and 511, and New York Family Court Act §§ 255, 711 and 732.

A number of motions are now pending. Plaintiffs have moved for class action determinations. The class which plaintiffs seek to represent includes all persons who, based upon a PINS adjudication, are presently placed, are on parole from placement or are subject to placement in the four state training schools. In addition, plaintiffs seek to maintain this action against a class of defendants composed of all Family Court Judges of the State of New York who, in their official capacities, are empowered to order that plaintiffs and their class be placed in state training schools. Plaintiffs have further moved for a preliminary injunction restraining defendants from placing or continuing the placement of plaintiffs and their class in state training schools, and directing that they be placed in programs which provide adequate and appropriate treatment. Defendants have moved to dismiss the complaint on various grounds pursuant to Rule 12(b), Fed. R. Civ. P., and have requested that the court abstain from exercising its jurisdiction. For the reasons set forth below, the court concludes that this is a proper case for the application of the abstention doctrine and, therefore, will not at this time decide the pending motions.

In Reid v. Board of Education of the City of New York, 453 F.2d 238 (2d Cir. 1971), the facts of which are closely analogous to the facts presented by the instant case,

The Court of Appeals upheld the decision of the district court to abstain. That case was a civil rights class action brought on behalf of all brain-injured children eligible for special public school classes for the handicapped. The action was based upon a claim that the defendant Board of Education deprived plaintiffs of due process of law, equal protection of law, and the right to a free public education, all in violation of the fourteenth amendment, by failing to screen applicants for special classes within a reasonable time and by failing to provide special classes for all eligible children.

Plaintiffs in Reid did not assert pendent state law claims in their complaint. The Court, however, noting that plaintiffs had a substantial claim under provisions of both the New York Education Law and the New York Constitution, held that "where a decision under state law might obviate the necessity of a federal constitutional determination, but the state law is unclear and a federal adjudication under the court's pendent jurisdiction would thrust the federal courts into a sensitive area of state administration, the federal courts should abstain." Supra, 453 F.2d at 240. Applying this holding to the facts in Reid, the Court stated that it was not aware of any state court decision defining the obligations of the Board of Education under either the Education Law or the state constitution, and that such a decision by the state

courts might result in a determination that the board of education was in default of its obligations by failing to provide prompt screening and placement for all eligible brain-injured children. Thus, the state law was unclear, and a decision under it might have obviated the necessity of a federal constitutional determination. The Court further found that because the New York legislature had provided in the Education Law a broad scheme for the education for handicapped children, the case involved a sensitive area of state regulation.

Turning now to the facts of the instant case, plaintiffs have appended state claims to their complaint. In addition to the constitutional claims asserted, plaintiffs allege that defendants are obliged to provide "adequate and appropriate training, care and rehabilitation" to PINS under sections 501, 510 and 511 of the New York Executive Law and sections 255, 711 and 732 of the New York Family Court. Section 255 of the Family Court Act provides Family Court Judges with the power and means to effectuate the general purpose of giving the children within the jurisdiction of the Family Court "such care, protection and assistance as will best enhance their welfare." N.Y. FAM. CT. ACT §255 (McKinney Supp. 1974). Section 511 of the Executive Law specifically provides that training schools "shall be for the training, care and rehabilitation" of PINS. N.Y. EXEC. LAW §511(1) (McKinney 1972).

The New York Court of Appeals ("New York Court") has upheld the existence of a statutory right to "adequate supervision and treatment." Matter of Ellery C., 32 N.Y.2d 588, 591, 347 N.Y.S.2d 51, 53, 300 N.E.2d 424, 425 (1973). It thus appears clear that plaintiffs have a substantial statutory claim under New York law.

In its most recent opinion on the subject, the New York Court reaffirmed the existence of the statutory right to treatment and defined the "perimeters" of that right. Matter of Lavette M., 35 N.Y.2d 136, 141-143, 359 N.Y.S.2d 20, 23-24, 316 N.E.2d 314, 317 (1974). While setting forth the broad outlines of an adequate treatment program, the New York Court expressly reserved a more complete consideration for a case properly raising the issues: "On the total record before us, we cannot assume that the necessary initiatives to establish a fully adequate program of supervision and treatment for PINS children at the training schools, already begun, will not be carried to fruition (citation omitted). A different question will be presented if at a later time it appears that it has not." Id.; compare with Elgin v. Silver, 9 App. Div.2d 645, 192 N.Y.S.2d 475 (1st Dep't 1959), quoted in Reid v. Board of Education, supra, 453 F.2d at 243-244. In concluding, the New York Court again noted that, "Beyond this, we need not go at this time." Supra, 35 N.Y.2d at 143, 359 N.Y.S.2d at 24, 316 N.E.2d at

317. Thus, beyond the broad perimeters, the right to treatment under state law remains undefined and unclear.

It further appears that a decision under this unclear state law might obviate the necessity of a federal constitutional determination. Certainly a state court decision on the question of whether or not the present program and conditions at the training schools fulfill the statutory right to treatment might moot or modify the federal constitutional issues presented here. This applies to the non-treatment as well as the treatment claims. For example, plaintiffs allege that a prerequisite for providing "adequate and appropriate treatment" is "a family environment which fosters intimacy, respect and trust," and that "because of the training schools' geographic isolation, plaintiffs are not able even to have consistent contact with any families." Complaint, Paragraph 49. If this allegation were to be sustained by a state court construing state law, a determination by this court on plaintiffs' claim that the placement of PINS in training schools geographically distant from their families constitutes cruel and unusual punishment in violation of the eighth amendment of the federal constitution would become unnecessary.

In opposition to abstention, plaintiffs cite Martarella v. Kelley, 349 F. Supp. 575 (S.D.N.Y. 1972), an action challenging the constitutionality of temporarily detaining PINS in "maximum security" facilities. The defendants in

that case improperly raised the issue of abstention and confused it with the issue of subject matter jurisdiction. Id. at 593. In any event, the defendants apparently did not cite the Reid case, and the district court entertained an application for declaratory and injunctive relief. The Martarella case actually serves as a good example of the wisdom of abstention under appropriate circumstances. One of the claims advanced in Martarella was that the common custody of PINS and juvenile delinquents ("JDs") in temporary detention facilities violated the equal protection clause and other federal constitutional provisions. The district court discussed the issues raised and held that the common custody of PINS and JDs was not unconstitutional. Less than one year after the Martarella case was decided, the New York Court in Matter of Ellery C., supra, held that the common custody of PINS and JDs in the state training schools did not meet the standards of "supervision" and "treatment" contemplated by the Family Court Act. Had the Martarella Court abstained, the decision under state law in Ellery C. would have obviated the necessity of a federal constitutional determination.

Finally, abstention is appropriate here because, as in Reid, the action concerns a sensitive area of state administration. The New York statutory scheme for the adjudication and treatment of PINS is both broad and complex.

Section 712(b) of the Family Court Act defines a PINS as "a male less than sixteen years of age and a female less than eighteen years of age who does not attend school in accord with the provisions of part one of article sixty-five of the education law or who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of parent or other lawful authority."* N.Y. FAM. CT. ACT §712(b) (McKinney Supp. 1974). A PINS proceeding is initiated by the filing of a petition alleging that the child falls within one of these categories and is in need of supervision or treatment. FAM. CT. ACT §732. A PINS proceeding is conducted in the Family Court in two stages: (1) a "fact-finding hearing" pursuant to section 742 to determine whether the child committed the acts alleged in the petition; (2) a "dispositional hearing" pursuant to section 743 to determine whether the child requires supervision or treatment. If a child is adjudicated a PINS, an order of disposition must be entered either discharging with warning, suspending judgment, placing on probation or continuing the proceeding and placing pursuant to section 756. FAM. CT. ACT §754. Section 756(a) provides that a PINS may be placed by the court "in its own home or in the custody of a suitable relative or other suitable private person or a commis-

*Females over the age of 15 are no longer subjected to PINS proceedings. A. v. City of New York, 31 N.Y.2d 83, 335 N.Y.S.2d 33, 286 N.E.2d 432 (1972).

sioner of social services or an authorized agency including the division for youth pursuant to article nineteen-G of the executive law. . . ." Under section 501(6) and Title III of Article 19-G of the Executive Law, the New York State Division for Youth is authorized to operate and maintain state training schools for PINS. There are extensive regulations, promulgated pursuant to Article 19-G of the Executive Law, which further govern the operation of the state training schools. See 9A N.Y. C.R.R. Parts 168, 169, 171.

The above is merely a broad outline of the comprehensive statutory scheme enacted by the New York State legislature to deal with PINS. The statutes have been amended from time to time and have been the subject of frequent application and interpretation by the state courts. As noted earlier, the case law concerning the statutory right to treatment has been evolving to the point where the New York Court has indicated a willingness to fully define the statutory right to treatment in an appropriate case. See Matter of Lavette M., supra; Matter of Ellery C., supra. In its last opinion on the subject, the New York Court expressly left open for future determination the question of whether the training schools have established "a fully adequate program of supervision and treatment for PINS. . . ." Matter of Lavette M., supra, 35 N.Y.2d at 141, 359 N.Y.S.2d at 23,

316 N.E.2d at 317. A federal constitutional determination at this time on the issues raised in the instant action would disturb the evolution of the New York case law and would needlessly thrust the federal courts into a particularly sensitive and complex area of state regulation. A state court decision, on the other hand, might avoid a decision under the federal constitution and "would avoid any possible irritant in the federal-state relationship." Reetz v. Bozanich, 397 U.S. 82, 87 (1969).

The decision to abstain in this case does not in any way reflect the court's view of the merits of the case. However, the court deems the allegations contained in the complaint herein to be of a sufficiently serious nature as to warrant reasonably prompt consideration by an appropriate court. State court proceedings should be expeditiously commenced by plaintiffs, and it is the hope of this court that the matter will be heard by the state courts without undue delay. In the meantime, this court will retain jurisdiction and, in the event of unreasonable delay in the state court proceedings, will entertain an application to reactivate the case.

U.S.D.J.

Dated: New York, New York
June 23, 1975

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
PATRICIA McREDMOND, et al., by
their attorney and next friend
CHARLES SCHINITSKY, on behalf of
themselves and all others
similarly situated,

Plaintiffs,

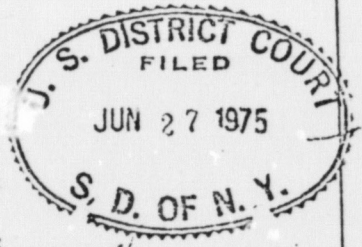
-against-

MALCOLM WILSON, individually and as
Governor of the State of New York,
et al.,

Defendants.
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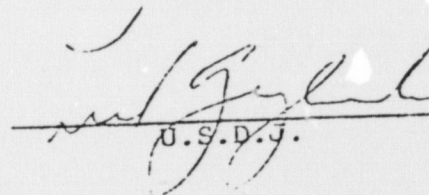
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: 74 Civ. 4948 (LJK)

: ORDER



The Court having reviewed defendants' request
that the Court abstain from exercising its jurisdiction,
and having determined, by Opinion dated June 23, 1975,
that this is a proper case for the application of the ab-
stention doctrine, it is hereby

ORDERED that the action is stayed in accordance
with said Opinion.


U.S.D.J.

Dated: New York, New York
June 7, 1975.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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[C A P T I O N] :
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NOTICE OF APPEAL

Notice is hereby given that PATRICIA MCREDMOND, SYLVIA JOHNSON, GREGORY VAN LEUVAN, ROBERT SOSA, ROSE MARIE TARASEWICH, ANGEL GEORGE and WILLIE BOSKET, the plaintiffs above-named, hereby appeal to the United States Court of Appeals for the Second Circuit from the Order entered in this action on the 27th day of June, 1975.

COPY OF WRITING PAPER
RECEIVED
DEPARTMENT OF LAW

AUG 27 1975

NEW YORK CITY OFFICE

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